

2. Section 1414(g) of the Act, 42 U.S.C. § 300g-3(g), provides that, “In any case in which the Administrator is authorized to bring a civil action under this section or under section 300j-4 of this title with respect to any applicable requirement, the Administrator also may issue an order to require compliance with such applicable requirement.”

3. Section 1414(a)(2) of the Act, 42 U.S.C. § 300g-3(a)(2), provides that when the Administrator finds that a public water system is not in compliance with an applicable requirement, where the state in which the public water system is located does not have primary enforcement responsibility, the Administrator shall issue an order to the public water system requiring compliance. Section 1414(i) of the Act, 42 U.S.C. § 300g-3(i), defines “applicable requirements,” to include requirements under Section 1433 of the Act, 42 U.S.C. § 300i-2, and any regulation, schedule, or requirement promulgated or imposed pursuant to that section.

4. A “public water system” (“PWS”) is defined in the Act as “a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals.” Section 1401(4) of the SDWA, 42 U.S.C. § 300f(4).

5. A “community water system” (“CWS”) is defined in the Act as “a public water system that . . . serves at least 15 service connections used by year-round residents . . . or regularly serves at least 25 year-round residents.” Section 1401(15) of the SDWA, 42 U.S.C. § 300f(15).

6. City of Chesapeake - Northwest River System (“Respondent”) is a municipality and as such is a “person” as defined by Section 1401(12) of the SDWA, 42 U.S.C. § 300f(12), and 40 C.F.R. § 141.2.

7. Respondent is a person who owns and operates a public water system and is a “supplier of water” as defined by Section 1401(5) of the SDWA, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2.

8. Respondent owns and/or operates the City of Chesapeake - Northwest River System water system, located in Chesapeake, Virginia.

9. Respondent provides piped water for human consumption to over 100,000 persons per year, year-round, and has a minimum of 15 service connections used by year-round residents or regularly serves at least 25 year-round residents and is therefore a “community water system.” Respondent is therefore subject to the requirements of Part B of the SDWA, 42 U.S.C. § 300g, and its implementing regulations found at 40 C.F.R. Part 141, including but not limited to sampling and analyzing the drinking water and reporting analytical results to the state.

10. On October 23, 2018, the SDWA was amended in accordance with the America’s Water Infrastructure Act (“AWIA”) of 2018 (Public Law 115-270).

11. The Virginia Department of Health (“VDH”) has primary enforcement responsibility under Section 1413(a) of the SDWA, 42 U.S.C. § 300g-2(a). However, the AWIA requirements are requirements for which the EPA retains primary enforcement authority as per Section 1433 of the SDWA, 42 U.S.C. §300i-2.

12. Section 1433(a) of the SDWA, 42 U.S.C. § 300i-2(a), requires a CWS serving a population of over 3,300 persons to conduct a Risk and Resilience Assessment (“RRA”) of its system, which shall include an assessment of:

- a. the risk to the system from malevolent acts and natural hazards;
- b. the resilience of the pipes and constructed conveyances, physical barriers, source water, water collection and intake, pretreatment, treatment, storage and distribution facilities, electronic, computer, or other automated systems (including the security of such systems) which are utilized by the system;
- c. the monitoring practices of the system;
- d. the financial infrastructure of the system;
- e. the use, storage, or handling of various chemicals by the system; and
- f. the operation and maintenance of the system.

13. Section 1433(a)(3)(A) of the SDWA, 42 U.S.C. § 300i-2(a)(3)(A), required a CWS serving a population over 100,000 to submit a certification, prior to March 31, 2020, to the EPA Administrator that it had conducted its RRA.

14. Section 1433(a)(3)(B) of the SDWA, 42 U.S.C. § 300i-2(a)(3)(B), requires a CWS to review its RRA at least once every 5 years after the applicable deadline for submission of its initial certification to determine whether the RRA should be revised. Upon completion of such a review, a CWS shall submit to the EPA Administrator a certification that the CWS has reviewed its RRA and, if applicable, revised the RRA.

15. Pursuant to Section 1433(a)(3)(B) of the SDWA, 42 U.S.C. § 300i-2(a)(3)(B), Respondent was required to submit a certification by March 31, 2025.

16. Based on information available to the EPA, the Respondent has failed to certify that it has reviewed and, if applicable, revised its RRA by the March 31, 2025 deadline, and therefore, is in violation of Section 1433(a) of the SDWA, 42 U.S.C. § 300i-2(a).

17. Pursuant to Section 1414(g)(2) of the SDWA, 42 U.S.C. § 300g-3(g)(2), the EPA has notified VDH of this Order.

### **III. ORDER**

18. Based on the foregoing findings, and pursuant to the authority of Section 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g), the EPA hereby orders Respondent to undertake the action specified below.

19. No later than 30 calendar days from the effective date of this Order, Respondent shall review and, if applicable, revise its RRA and submit its certification, as required by Section 1433(a) of the SDWA, 42 U.S.C. § 300i-2(a), to the EPA Administrator. For instructions on how to submit the RRA

certification, visit the EPA's website. (<https://www.epa.gov/waterresilience/americas-water-infrastructure-act-risk-assessments-and-emergency-response-plans>)

20. No later than 30 calendar days from the effective date of this Order, Respondent shall provide:

- a. Photographic Confirmation. A photograph of the updated RRA cover page and table of contents to the EPA. **Do not submit the RRA to the below email address below**; submit only the photographic evidence of the RRA cover page.
- b. Written confirmation. A written confirmation, that includes the certification language in Paragraph 21 (Certification Statement), to the EPA that the requirements of Paragraph 20.a (Photographic Confirmation) have been met and that Respondent is in compliance with Section 1433(a) of the SDWA, 42 U.S.C. §300i-2(a), and the Order.

Submit the above referenced confirmations, electronically via email to:

Natale DePase  
U.S. Environmental Protection Agency Region 3  
[depase.natale@epa.gov](mailto:depase.natale@epa.gov)  
215-814-2799

#### IV. GENERAL PROVISIONS

21. Certification Statement. The following certification must accompany each submission by Respondent pursuant to this Order and must be signed by a Representative of Respondent authorized to sign on behalf of Respondent:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this response and that, based on my inquiry of those individuals immediately responsible for obtaining or compiling the information, I believe that the submitted information is true, accurate, and complete. I recognize that there are significant penalties for submitting false and/or misleading information, including the possibility of fine and/or imprisonment."

Signed:

Title:

Date:

22. The provisions of this Order shall apply to and be binding upon the Respondent and its officers, directors, employees, contractors, agents, trustees, successors and assigns.

23. This Order does not waive, suspend, or modify the requirements of the SDWA, 42 U.S.C. §§ 300f - 300j-27, or its implementing regulations found in 40 C.F.R. Part 141, which remain in full force and effect. Issuance of this Order is not an election by the EPA to forgo any civil or criminal action otherwise authorized under the SDWA. Respondent's failure to comply with all of the requirements of the Act, 40 C.F.R. Part 141, and milestones required under this Order, may subject Respondent to additional enforcement action, including but not limited to administrative actions, as appropriate, for penalties under Section 1414(g)(3)(A) of the SDWA, 42 U.S.C. § 300g-3(g)(3)(A), and/or injunctive relief.

24. Any violation of the terms of this Order may result in further EPA enforcement action including the imposition of administrative penalties of up to \$69,733 per day for each day of violation that occurs, or a judicial action including the imposition of civil penalties, pursuant to Section 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g), as modified by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 et seq., and subsequent Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19.

25. The EPA reserves the right to commence action against any person, including Respondent, in response to any condition which the EPA determines may present an imminent and substantial endangerment to the public health.

26. Any request for modification of this Order must be in writing and must be approved by the EPA.

27. This Order shall not prohibit, prevent, or otherwise preclude the EPA from taking whatever action it deems appropriate to enforce the Act in any matter and shall not prohibit, prevent, or otherwise preclude the EPA from relying on this Order in subsequent administrative proceedings.

28. This Order in no way relieves Respondent of the duty to comply with any federal, state, or local law, regulation, ordinance, or permit. Compliance with this Order shall be no defense to any action commenced pursuant to such authorities.

29. Pursuant to its authority under Section 1445(b)(1) of the SDWA, 42 U.S.C. § 300j-4(b)(1), the EPA and its authorized representatives, including contractors, shall have authority upon the presentation of proper identification to enter the premises of Respondent at any time without prior notification to monitor the activities required by this Order, verify any data or information submitted pursuant to this Order, obtain samples, and inspect and review any records generated and/or maintained pursuant to this Order. The EPA reserves and does not waive all existing inspection and information request authority.

30. Respondent may seek federal judicial review of the Order pursuant to section 1448(a) of the Safe Drinking Water Act, 42 U.S.C. § 300j-7(a).

31. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 162-21(b)(2), performance of Section III of this Order is restitution, remediation, or required to come into compliance with the law.

## **V. TERMINATION AND SATISFACTION**

32. The provisions of this Order shall be deemed satisfied when Respondent completes the compliance tasks required by Section III of this Order. If, following receipt of confirmation that Respondent has complied with the requirements of Section III (Order), the EPA agrees that Respondent has adequately complied with all requirements of this Order, then the EPA may provide written notification of the termination of this Order.

## **VI. OPPORTUNITY TO CONFER**

33. Respondent is invited to confer with the EPA about the findings and conclusions reflected in this Order including the terms and conditions contained herein. Respondent's request for a conference must be in writing via e-mail within ten (10) calendar days of receipt of this Order. If the requested conference is held, this Order shall become effective ten (10) calendar days after the conference is held. If Respondent does not request a conference within ten (10) calendar days of receipt of this Order, Respondent waives its right to a conference, and this Order shall become effective ten (10) calendar days from its receipt. Any request for a conference, or other inquiries concerning this Order, should be made in writing to: Natale DePase, [depase.natale@epa.gov](mailto:depase.natale@epa.gov).

## **VII. EFFECTIVE DATE**

34. The effective date of this Order shall be ten (10) calendar days from the date of receipt of this Order, or, if a conference is requested per Section VI (Opportunity to Confer) above, this Order shall become effective ten (10) calendar days after the conference is held.

IT IS SO ORDERED.

**FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:**

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*[Electronic Signature and Date]*  
Karen Melvin, Director  
Enforcement and Compliance Assurance  
Division  
U.S. EPA, Region 3

With copies served via email to:  
Natale DePase  
U.S. EPA, Region 3  
[depase.natale@epa.gov](mailto:depase.natale@epa.gov)



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*[Electronic Signature and Date]*

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 3