

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
PHILADELPHIA, PENNSYLVANIA 19103

IN THE MATTER OF:	)	
	)	
Brenton County Public Service District	)	Docket No. SDWA-03-2022-0069DS
	)	
Respondent.	)	ADMINISTRATIVE ORDER
	)	
	)	Proceedings Pursuant to Section 1414(g)
PWS ID No. WV3305504	)	of the Safe Drinking Water Act, as
PO Box 394	)	amended, 42 U.S.C. § 300g-3(g)
Brenton, WV 24818	)	
	)	
System.	)	
	)	

**I. STATUTORY AUTHORITY**

The United States Environmental Protection Agency, Region III (“EPA” or “Agency”) has made the following FINDINGS OF FACTS and issues this ADMINISTRATIVE ORDER (“the Order”) pursuant to Section 1414(g) of the Safe Drinking Water Act (“SDWA” or “the Act”), 42 U.S.C. § 300g-3(g). The Administrator of EPA has delegated the authority to take these actions to the Regional Administrator of EPA, Region III, who has redelegated these authorities to the Director, Enforcement & Compliance Assurance Division, EPA Region III.

**II. EPA’S FINDINGS of FACT, JURISDICTIONAL ALLEGATIONS, AND CONCLUSIONS OF LAW**

- 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.”
- 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).
- A “community water system” 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.” 42 U.S.C. § 300f(15).
- Brenton County Public Service District (“Respondent”) is an organization or corporation organized and operating under the laws of the State of West Virginia, 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.
- Respondent is a person who owns and/or 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.

6. Respondent is the owner and/or operator of Brenton County Public Service District, PWS Identification Number WV3305504 (“System”), located at PO Box 394 Brenton, WV 24818, which provides water for human consumption.
7. The System is a public water system that provides water from a ground water source. The System serves approximately 363 persons per year and has a minimum of 15 service connections and is therefore a “community water system” or “CWS,” as defined by Section 1401(15) of the SDWA, 42 U.S.C. § 300f(16) and 40 C.F.R. 141.2.
8. The State of West Virginia, acting through the Department of Health and Human Resources (“WVDHHR”), has primary enforcement responsibility under Section 1413(a) of the SDWA, 42 U.S.C. § 300g-2(a).
9. According to Section 1411 of the SDWA, 42 U.S.C. § 300g, Respondent is required to comply with public water system provisions in Part B of the SDWA, and the applicable regulations 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. WVDHHR notified EPA through the Safe Drinking Water Information System (“SDWIS”) of the violations listed in the following paragraphs. SDWIS contains records about public water systems and their violations of EPA’s drinking water regulations, as reported to EPA by the states.
11. On April 6, 2021, EPA a Notice of Violation and Opportunity to Confer (“NOVOC”) to Respondent via certified mail, pursuant to Section 1414(a) of the SDWA, 42 U.S.C. § 300g-3(a) and provided a copy to WVDHHR. The NOVOC was delivered to the Respondent on April 15, 2021.
12. Pursuant to Section 1414(g)(2) of the SDWA, 42 U.S.C. § 300g-3(g)(2), EPA has offered the WVDHHR an opportunity to confer with the Agency regarding the Order by submitting an advance draft copy of this Order to the WVDHHR.

**COUNT I  
FAILURE TO CONDUCT ARSENIC MONITORING  
DURING THE PERIOD 2017 - 2019**

13. The information and allegations in the preceding paragraphs are incorporated herein by reference.
14. 40 C.F.R. §141.23(a)(1) (Inorganic chemical sampling and analytical requirements) provides:

Community water systems shall conduct monitoring to determine compliance with the maximum contaminant levels specified in § 141.62 in accordance with this section. . .

(a) Monitoring shall be conducted as follows:

- (1) Groundwater systems shall take a minimum of one sample at every entry point to the distribution system which is representative of each well after treatment

(hereafter called a sampling point) beginning in the initial compliance period. The system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

15. 40 C.F.R. §141.23(c) provides:

(c) The frequency of monitoring conducted to determine compliance with the maximum contaminant levels in § 141.62 for antimony, arsenic, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium and thallium shall be as follows:

(1) Groundwater systems shall take one sample at each sampling point during each compliance period.

(2) The system may apply to the State for a waiver from the monitoring frequencies specified in paragraph (c)(1) of this section. States may grant a public water system a waiver for monitoring of cyanide, provided that the State determines that the system is not vulnerable due to lack of any industrial source of cyanide.

\* \* \*

(8) The State may decrease the quarterly monitoring requirement to the frequencies specified in paragraphs (c)(1) and (c)(2) of this section provided it has determined that the system is reliably and consistently below the maximum contaminant level. In no case can a State make this determination unless a groundwater system takes a minimum of two quarterly samples and a surface water system takes a minimum of four quarterly samples.

16. 40 C.F.R. §141.23(j) provides:

(j) Each public water system shall monitor at the time designated by the State during each compliance period.

17. As the initial monitoring result for arsenic in the System was less than the maximum contaminant level (“MCL”), Respondent qualified for reduced monitoring, in accordance with 40 C.F.R. § 141.23(c)(8).

18. Pursuant to its authority in 40 C.F.R. § 141.23(c)(8), WVDHHR determined that Respondent qualified for reduced monitoring for arsenic. In a Monitoring Status Report provided to the Respondent, WVDHHR required Respondent to collect one (1) sample every three-years and conduct monitoring to determine compliance with arsenic MCLs, for the 3-year monitoring period of 2017 to 2019.

19. During the three-year monitoring period of 2017 to 2019, the Respondent failed to monitor arsenic at the time designated by the WVDHHR, as required by 40 C.F.R. § 141.23(j).

20. Respondent’s failure to monitor for arsenic at the time designated by the WVDHHR, during the compliance period of 2017 to 2019, violated the requirements of 40 C.F.R. § 141.23(a)(1) and (j), and thus violated an applicable requirement of the SDWA, as defined by Section 1414(i) of

the SDWA, 42 U.S.C. § 300g-4(i).

**COUNT II**  
**FAILURE TO CONDUCT VOLATILE ORGANIC CHEMICAL MONITORING**  
**DURING THE PERIOD 2017 - 2019**

21. The information and allegations in the preceding paragraphs are incorporated herein by reference.
22. 40 C.F.R. §141.24(f)(1) (Organic chemicals, sampling and analytical requirements) provides:
  - (f) Beginning with the initial compliance period, analysis of the contaminants listed in 141.61(a)(1) through (21) for the purpose of determining compliance with the maximum contaminant level shall be conducted as follows:
    - (1) Groundwater systems shall take a minimum of one sample at every entry point to the distribution system which is representative of each well after treatment (hereafter called a sampling point). Each sample must be taken at the same sampling point unless conditions make another sampling point more representative of each, treatment plant, or within the distribution system.
23. 40 C.F.R. § 141.24(f)(4)-(5) provides:
  - (4) If the initial monitoring for contaminants listed in § 141.61(a)(1) through (8) and the monitoring for the contaminants listed in § 141.61(a)(9) through (21) as allowed in paragraph (f)(18) has been completed by December 31, 1992, and the system did not detect any contaminant listed in § 141.61(a)(1) through (21), then each ground and surface water system shall take one sample annually beginning with the initial compliance period.
  - (5) After a minimum of three years of annual sampling, the State may allow groundwater systems with no previous detection of any contaminant listed in § 141.61(a) to take one sample during each compliance period.
24. Pursuant to its authority in 40 C.F.R. § 141.23(f)(6), WVDHHR determined that Respondent qualified for reduced monitoring for the volatile organic chemicals listed: 1,1,1 Trichloroethane, 1,1,2 Trichloroethane, 1,1 Dichloroethylene, 1,2,4 Trichlorobenzene, 1,2 Dichloroethane, 1,2 dichloropropane, benzene, carbon tetrachloride, chlorobenzene, cis-1,1 dichloroethylene, dichloromethane, ethylbenzene, styrene, tetrachloroethylene, toluene, trans-1-1 dichloroethylene, vinyl chloride, and xylenes. WVDHHR required Respondent to collect one (1) sample of the Volatile Organic Chemicals to determine compliance of the applicable MCLs for the (3) three-year compliance period of 2017-2019.
25. During the three-year monitoring period of 2017 to 2019, Respondent failed to take the minimum of one (1) sample to monitor for the volatile organic chemicals listed: 1,1,1 Trichloroethane, 1,1,2 Trichloroethane, 1,1 Dichloroethylene, 1,2,4 Trichlorobenzene, 1,2 Dichloroethane, 1,2 dichloropropane, benzene, carbon tetrachloride, chlorobenzene, cis-1,1 dichloroethylene, dichloromethane, ethylbenzene, styrene, tetrachloroethylene, toluene, trans-1-1 dichloroethylene, vinyl chloride, and xylenes , as required by 40 C.F.R. § 141.24(f)(1).

26. Respondent's failure to take the minimum of one (1) sample to monitor for volatile organic chemicals violated the requirements of 40 C.F.R. § 141.24(f)(1), and thus violated an applicable requirement of the SDWA, as defined by Section 1414(i) of the SDWA, 42 U.S.C. § 300g-4(i).

**COUNT III  
FAILURE TO CONDUCT SYNTHETIC ORGANIC CHEMICAL MONITORING  
DURING THE PERIOD 2017- 2019**

27. The information and allegations in the preceding paragraphs are incorporated herein by reference.
28. 40 C.F.R 141.24(h)(1) provides:
- (h) Analysis of the contaminants listed in § 141.61(c) for the purposes of determining compliance with the maximum contaminant level shall be conducted as follows, with the exception that no monitoring is required for aldicarb, aldicarb sulfoxide or aldicarb sulfone:
    - (1) Groundwater systems shall take a minimum of one sample at every entry point to the distribution system which is representative of each well after treatment (hereafter called a sampling point). Each sample must be taken at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.
29. 40 C.F.R. § 141.24(h)(4) (Monitoring Frequency) provides:
- (i) Each community and non-transient non-community water system shall take four consecutive quarterly samples for each contaminant listed in § 141.61(c) during each compliance period, beginning in the initial compliance period.
  - (ii) Systems serving more than 3,300 persons which do not detect a contaminant in the initial compliance period may reduce the sampling frequency to a minimum of two quarterly samples in one year during each repeat compliance period.
30. Pursuant to 40 C.F.R. § 141.24(h)(4)(iii), WVDHHR determined that Respondent qualified for reduced monitoring for synthetic organic chemicals to one sample during each repeat compliance period.
31. During the three-year monitoring period of 2017 to 2019, Respondent failed to take the minimum of one (1) sample to monitor for the synthetic organic chemicals listed: 2,4-D, atrazine, benzo (A) pyrene, BHC-gamma, carbofuran, chlordane, di(2-ethylhexyl) adipate, di(2-ethylhexyl) phthalate, heptachlor, heptachlor epoxide, hexachlorocyclopentadiene, lasso, methoxychlor, oxamyl, picloram, simazine, total polychlorinated, and biphenyls (PCB) , in accordance with 40 C.F.R. §141.24(f)(1).
32. Respondent's failure to take the minimum of one (1) sample to monitor for synthetic organic chemicals violated the requirements of 40 C.F.R. § 141.24(f)(1), and thus violated an applicable requirement of the SDWA, as defined by Section 1414(i) of the SDWA, 42 U.S.C. § 300g-4(i).

**COUNT IV  
FAILURE TO CONDUCT RADIONUCLIDES MONITORING  
DURING PERIOD 2014 - 2019**

33. The information and allegations in the preceding paragraphs are incorporated herein by reference.

34. 40 C.F.R. §141.26(a) (Monitoring frequency and compliance requirements for radionuclides in community water systems) provides:

(a) *Monitoring and compliance requirements for gross alpha particle activity, radium-226, radium-228, and uranium.*

(1) Community water systems (CWSs) must conduct initial monitoring to determine compliance with § 141.66(b), (c), and (e) by December 31, 2007. For the purposes of monitoring for gross alpha particle activity, radium-226, radium-228, uranium, and beta particle and photon radioactivity in drinking water, “detection limit” is defined as in § 141.25(c).

(i) *Applicability and sampling location for existing community water systems or sources.* All existing CWSs using ground water, surface water or systems using both ground water and surface water (for the purpose of this section hereafter referred to as systems) must sample at every point to the distribution system that is representative of all sources being used (hereafter called a sampling point) under normal operating conditions. The system must take each sample at the same sampling point unless conditions make another sampling point more representative of each source or the State has designated a distribution system location, in accordance with paragraph (a)(2)(ii)(C) of this section.

35. 40 C.F.R. § 141.26(a)(3) (Reduced Monitoring) provides:

States may allow community water systems to reduce the future frequency of monitoring from once every three years to once every six or nine years at each sampling point.

\* \* \*

(ii) For gross alpha particle activity and uranium, if the average of the initial monitoring results for the contaminant is at or above the detection limit but at or below ½ the MCL, the system must collect and analyze for that contaminant using at least one sample at that sampling point every six years. For combined radium-226 and radium-228, the analytical results must be combined. If the average of the combined initial monitoring results for radium-226 and radium-228 is at or above the detection limit but at or below ½ the MCL, the system must collect and analyze for that contaminant using at least one sample at that sampling point every six years.

36. The 2019 Monitoring Status Report provided by WVDHHR demonstrates that the last sample taken by the system was on August 20, 2013, and no sample was taken for the 6-year monitoring

period of 2014 to 2019.

37. In the 2019 - 2022 Monitoring Status Reports provided to the Respondent, WVDHHR required the Respondent to take one (1) sample every six years to monitor for radionuclides.
38. During the 6-year monitoring period of 2014 to 2019, Respondent failed to take the required one (1) sample for monitoring of radionuclides, in accordance with 40 C.F.R. §141.26(a)(1)(i).
39. Respondent's failure to take the required one (1) sample for monitoring of radionuclides, during the monitoring period of 2014 to 2019, violated the requirements of 40 C.F.R. § 141.26(a)(1)(i) and (a)(3)(ii), and thus violated an applicable requirement of the SDWA, as defined by Section 1414(i) of the SDWA, 42 U.S.C. § 300g-4(i).

**COUNTS V through VI  
FAILURE TO CONDUCT LEAD AND COPPER MONITORING AND  
FAILURE TO PROVIDE NOTICE OF LEAD AND COPPER MONITORING  
FOR THE YEARS 2016-2021**

COUNT V

40. The information and allegations in the preceding paragraphs are incorporated herein by reference.
41. 40 C.F.R. §141.86(a)(1) (Monitoring requirements for lead and copper in tap water) requires water systems to identify a pool of targeted sites for collection of lead and copper tap samples.
42. In the 2021 Monitoring Status Report provided to the Respondent, WVDHHR required the Respondent to take five (5) samples per year to monitor for lead and copper. Because the system serves approximately 363 persons, the Respondent was required to sample five (5) sample sites in accordance with 40 C.F.R. § 141.86(c).
43. 40 C.F.R. § 141.86(d)(4) requires that water systems under reduced monitoring collect the samples sampling sites identified under 40 C.F.R. § 141.86(a). Systems monitoring annually or less frequently must collect and conduct the lead and copper tap sampling during the months of June, July, August or September unless the state has approved a different sampling period.
44. The System was subject to reduced lead and copper monitoring on an annual basis, which required at least five (5) sample sites.
45. For the period of 2021, Respondent failed to take five (5) samples per year to monitor for lead and copper, for individuals served by taps, as required by 40 C.F.R. § 141.86(d)(4).
46. Respondent's failure to take five (5) samples per year to monitor for lead and copper, for individuals served by taps, for the period of 2021, violated the requirements of 40 C.F.R. § 141.86(d)(4), and thus violated an applicable requirement of the SDWA, as defined by Section 1414(i) of the SDWA, 42 U.S.C. § 300g-4(i).

COUNT VI

47. The information and allegations in the preceding paragraphs are incorporated herein by reference.
48. 40 C.F.R. § 141.85(d)(1) (Public education and supplemental monitoring and mitigation requirements) provides:  
  
All water systems must provide a notice of the individual tap results from lead tap water monitoring carried out under the requirements of 141.86 to the persons served by the water system at the specific sampling site from which the sample was taken (e.g., the occupants of the building where the tap was sampled).
49. 40 C.F.R. § 141.85(d)(2) requires that a water system provide the consumer notice as soon as practicable.
50. For the years of 2016, 2017, 2019, 2020, and 2021, Respondent failed to provide notice of lead results to individuals served by the sampled taps, in accordance with the timing, content, and delivery requirements specified in 40 C.F.R. §141.85(d)(1)-(3).
51. Respondent’s failure to provide tap monitoring results no later than 30 days after the water system learned of the tap monitoring results, for the years of 2016, 2017, 2019, 2020, and 2021, violated the requirements of 40 C.F.R. § 141.85(d), and thus violated an applicable requirement of the SDWA, as defined by Section 1414(i) of the SDWA, 42 U.S.C. § 300g-4(i).

**COUNTS VII through VIII  
FAILURE TO CONDUCT STAGE 2 DISINFECTANTS  
AND DISINFECTION BYPRODUCT MONITORING  
DURING LATE 2020 AND 2021**

COUNT VII

52. The information and allegations in the preceding paragraphs are incorporated herein by reference.
53. 40 C.F.R. Part 141, Subpart V (§§ 141.620 - 141.629) contains monitoring requirements for Stage 2 Disinfectants and Disinfection Byproducts.
54. 40 C.F.R. § 141.620(a) (Routine monitoring) provides:  
  
The regulations in this subpart establish monitoring and other requirements for achieving compliance with maximum contaminant levels based on locational running annual averages (“LRAA”) for total trihalomethanes (“TTHM”) and haloacetic acids (five) (“HAA5”), and for achieving compliance with maximum residual disinfectant residuals for chlorine and chloramine for certain consecutive systems.
55. 40 C.F.R § 141.621(a)(2), requires community water systems serving less than 500 people to monitor ground water for TTHM and HAA5 (together “Stage 2 Disinfection Byproducts”) at no fewer than 2 locations annually.

56. Pursuant to 40 C.F.R. § 141.625(a), community water systems “must increase monitoring to dual sample sets once per quarter (taken every 90 days) at all locations if a TTHM sample is >0.080 mg/L or a HAA5 sample is >0.060 mg/L at any location.” *See also* 40 C.F.R. § 141.132(b)(1)(i).
57. 40 C.F.R § 141.628 (Requirements for remaining on increased TTHM and HAA5 monitoring based on subpart L results) provides:
- If you were on increased monitoring under § 141.132(b)(1), you must remain on increased monitoring until you qualify for a return to routine monitoring under § 141.625(c). You must conduct increased monitoring under § 141.625 at the monitoring locations in the monitoring plan developed under § 141.622 beginning at the date identified in § 141.620(c) for compliance with this subpart and remain on increased monitoring until you qualify for a return to routine monitoring under § 141.625(c).
58. Based on the data WVDHHR provided through SDWIS and the 2020 Monitoring Status Report, Respondent failed to monitor groundwater for the Stage 2 Disinfection Byproduct TTHM for the 2020 monitoring period.
59. Respondent’s failure to monitor annually for the Stage 2 Disinfection Byproducts TTHM in the 2020 monitoring period is a violation of 40 C.F.R. § 141.621(a)(2), and thus violated an applicable requirement of the SDWA, as defined by Section 1414(i) of the SDWA, 42 U.S.C. § 300g-4(i).
60. In accordance with 40 C.F.R § 141.625(c), WVDHHR determined that Respondent had to increase monitoring for Stage 2 Disinfection Byproducts beginning in 2021 and required Respondent to collect samples of TTHM once per quarter.
61. In the 2021 - 2022, Monitoring Status Reports provided to the Respondent, WVDHHR required Respondent to take one (1) sample per quarter to monitor for total TTHM.
62. For the quarterly monitoring periods ending on March 31, 2021, June 30, 2021, September 30, 2021, December 31, 2021, and March 31, 2022, Respondent failed take one (1) sample per quarter to monitor for TTHM, as required by 40 C.F.R. § 141.623(a) and the Monitoring Status Report.
63. Respondent’s failure to take one (1) sample per quarter to monitor for TTHM, for the quarterly monitoring periods ending on March 31, 2021, June 30, 2021, September 30, 2021, December 31, 2021, and March 31, 2022, violated the requirements of 40 C.F.R. § 141.623(a), and thus violated an applicable requirement of the SDWA, as defined by Section 1414(i) of the SDWA, 42 U.S.C. § 300g-4(i).

### COUNT VIII

64. The information and allegations in the preceding paragraphs are incorporated herein by reference.

65. Based on the data WVDHHR provided through SDWIS and the 2020 Monitoring Status Report, Respondent failed to monitor groundwater for Stage 2 Disinfection Byproduct HAA5 for the 2020 monitoring period.
66. Respondent's failure to monitor annually for the Stage 2 Byproduct HAA5 in the 2020 monitoring period is a violation of 40 C.F.R. §141.621(a)(2), and thus violated an applicable requirement of the SDWA, as defined by Section 1414(i) of the SDWA, 42 U.S.C. § 300g-4(i).
67. In accordance with 40 C.F.R. §141.625(c), WVDHHR determined that Respondent had to increase monitoring for Stage 2 Disinfection Byproducts beginning in 2021 and required Respondent to collect samples of HAA5 once per quarter.
68. In the 2021 - 2022 Monitoring Status Reports provided to the Respondent, WVDHHR required the Respondent to take one (1) sample per quarter to monitor for haloacetic acids ("HAA5").
69. For the quarterly monitoring periods ending on March 31, 2021, June 30, 2021, September 30, 2021, December 31, 2021, and March 31, 2022, Respondent failed take one (1) sample per quarter to monitor for HAA5, as required by 40 C.F.R. § 141.623 and the 2022 Monitoring Status Report.
70. Respondent's failure to take one (1) sample per quarter to monitor for HAA5, for the quarterly monitoring periods ending on March 31, 2021, June 30, 2021, September 30, 2021, December 31, 2021, and March 31, 2022, violated the requirements of 40 C.F.R. § 141.623, and thus violated an applicable requirement of the SDWA, as defined by Section 1414(i) of the SDWA, 42 U.S.C. § 300g-4(i).

### **COUNT IX**

#### **FAILURE TO ISSUE PUBLIC NOTIFICATIONS DURING THE PERIOD 2021**

71. The information and allegations in the preceding paragraphs are incorporated herein by reference.
72. 40 C.F.R. §141.201(a) provides:
  - (a) *Who must give public notice?* Each owner or operator of a public water system (community water systems, non-transient non-community water systems, and transient non-community water systems) must give notice for all violations of national primary drinking water regulations (NPDWR) and for other situations, as listed in Table 1.
73. Based on the data WVDHHR provided through SDWIS, the Respondent failed to issue the following public notifications: one (1) for failure to monitor for Nitrite on December 31, 2019, one (1) for failure to monitor for arsenic on December 31, 2019, one (1) for failure to monitor for Nitrate on December 31, 2019, and one (1) for failure to conduct routine monitoring and reporting for Lead and Copper on October 1, 2020.
74. Respondent's failure to distribute four (4) Public Notifications during the years of 2019 and 2020 violated the requirements of 40 C.F.R. § 141.201(a), and thus violated an applicable requirement of the SDWA, as defined by Section 1414(i) of the SDWA, 42 U.S.C. § 300g-4(i).

**COUNT X  
FAILURE TO CONDUCT NITRITE MONITORING  
DURING THE PERIOD 2021**

- 75. The information and allegations in the preceding paragraphs are incorporated herein by reference.
- 76. 40 C.F.R. § 141.23(e) provides:

All public water systems (community; non-transient, non-community; and transient, non-community systems) shall monitor to determine compliance with the maximum contaminant level for nitrite in 141.62(b).

\*            \*            \*

(3) For community, non-transient, non-community, and transient non-community water systems, the repeat monitoring frequency for any water system shall be quarterly for at least one year following any one sample in which the concentration is >50 percent of the MCL. The State may allow a system to reduce the sampling frequency to annually after determining the system is reliably and consistently less than the MCL.

- 77. Pursuant to its authority in 40 C.F.R. § 141.23(e)(3), WVDHHR determined that Respondent qualified for reduced monitoring for nitrites.
- 78. For the annual monitoring period of 2021, Respondent failed to take one (1) sample at each sampling point to monitor of nitrite, in accordance with 40 C.F.R. § 141.23(e)(1).
- 79. Respondent’s failure to take one (1) sample for monitoring of nitrite, for the annual monitoring period of 2021, violated the requirements of 40 C.F.R. § 141.23(e)(1), and thus violated an applicable requirement of the SDWA, as defined by Section 1414(i) of the SDWA, 42 U.S.C. § 300g-4(i).

**III. ORDER FOR COMPLIANCE**

Based on the foregoing FINDINGS, and pursuant to the authority of Section 1414(g) of the SDWA, 42 §§ 300g-3(g), Respondent is **HEREBY ORDERED** to:

- 67. Comply with all provisions of the SDWA and its implementing regulations.
- 68. Within thirty (30) days of the Effective date of this Order, respond to this Order by sending written correspondence to EPA and WVHHR at the addresses listed below, outlining the actions Respondent has taken and plans to take to comply with this Order, including specific interim and final milestones for such plans.
- 69. Within sixty (60) days of the Effective Date of this Order, Respondent shall take samples and submit the monitoring results for arsenic to EPA and WVDHHR, in accordance with 40 C.F.R. § 141.23(a)(1) and (j).

70. Within sixty (60) days of the Effective Date of this Order Respondent shall take samples and submit the monitoring results for volatile organic chemicals to EPA and WVDHHR, in accordance with 40 C.F.R. § 141.24(f)(1).
71. Within sixty (60) days of the Effective Date of this Order, Respondent shall take samples and submit the monitoring results for synthetic organic chemicals to EPA and WVDHHR, in accordance with 40 C.F.R. § 141.24(f)(1).
72. Within sixty (60) days of the Effective Date of this Order, Respondent shall take samples and submit the monitoring results for radionuclides to EPA and WVDHHR, in accordance with 40 C.F.R. § 141.26(a)(1)(i).
73. By September 30, 2022, Respondent shall take samples and submit monitoring results for lead and copper at taps used for LCR monitoring to EPA and WVHHR, in accordance with 40 C.F.R. § 141.86.
74. Within thirty (30) days of receiving results for the lead tap monitoring, Respondent shall provide a notice of the individual tap results from lead tap water monitoring carried out under the requirements of 141.86 to the persons served by the water system at the specific sampling site from which the sample was taken, pursuant to 40 C.F.R. § 141.85(d)(1)-(3).
75. Between the monitoring period of July 1, 2022 through September 30, 2022, Respondent shall submit monitoring results for Stage 2 Disinfection Byproducts: HAA5 and TTHM to EPA and WVDHHR. Respondent is required to sample in the month of August 2022, in accordance with 40 C.F.R. § 141.623(a).
76. Respondent shall issue all Public Notifications in the form, manner, and frequency required, pursuant 40 C.F.R. §§ 141.201-141.211.
77. Within sixty (60) days of the Effective Date of this Order, Respondent shall take samples and submit monitoring results for nitrite to EPA and WVDHHR, in accordance with 40 C.F.R. § 141.23(e)(1).
78. Electronically submit or fax any documentation, plans, reports and analyses to:

Ms. Lesly Huerta  
SDWA & Wetlands Section (3ED31)  
Enforcement & Compliance Assurance Division  
U.S. Environmental Protection Agency, Region III  
[huerta.lesly@epa.gov](mailto:huerta.lesly@epa.gov)  
(215) 814-2075

and

Mr. Dan J. Mace  
Compliance and Enforcement  
West Virginia Department of Health and Human Resources  
(304) 352-5023

Fax: (304)558-0139  
Address as Attention: Dan Mace

**IV. GENERAL PROVISIONS**

79. 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based upon my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Signed:

Title:

Date:

80. 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 42 U.S.C. § 1414(g)(3)(A) and/or injunctive relief.
81. Any violation of the terms of this Order may result in further EPA enforcement action including the imposition of administrative penalties of up to \$43,678 per day for each day of violation that occurs, or a judicial action including the imposition of civil penalties up to \$62,689 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.
82. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health.
83. This Order shall not prohibit, prevent, or otherwise preclude EPA from taking whatever action it deems appropriate to enforce the Act in any matter and shall not prohibit, prevent, or otherwise preclude EPA from relying on this Order in subsequent administrative proceedings.
84. Respondent's submission of progress reports and/or any delay in performing laboratory analyses shall not excuse the obligation of Respondent to comply with this Order.
85. This Order does not waive, suspend, or modify the requirements of the SDWA, 42 U.S.C.

§§ 300f-300j-26, or its implementing regulations, promulgated at 40 C.F.R. Part 141, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the SDWA.

86. This Administrative Order in no way relieves the Respondent of the duty to comply with any federal, state or local law, regulation, ordinance or permit. Compliance with this Administrative Order shall be no defense to any action commenced pursuant to such authorities.
87. 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. EPA reserves and does not waive any and all existing inspection and information request authority.
88. 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 of the Respondent.
89. 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).
90. 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 the actions in Section III (Order for Compliance), Paragraphs 67 through 78, is restitution, remediation, or required to come into compliance with the law.

#### **V. OPPORTUNITY TO CONFER**

91. Respondent is invited to confer with the Agency about the findings and conclusions reflected in this Order and about any of the terms and conditions contained herein. Respondent's request for a conference must be confirmed in writing via e-mail within ten (10) days of receipt of this Order. Respondent must communicate with EPA representatives to schedule the conference no later ten (10) days after receipt of this Order. If the requested conference is held, this Order shall become effective ten (10) days after the conference is held. If Respondent does not request a meeting within ten (10) days of receipt of this Order, Respondent waives its rights to a conference, and this Order shall become effective ten (10) days from its receipt. Any request for a conference, or other inquiries concerning this Order should be made in writing to: Natalie L. Katz, Senior Assistant Regional Counsel, at [katz.natalie@epa.gov](mailto:katz.natalie@epa.gov).

#### **VI. TERMINATION AND SATISFACTION**

92. The provisions of this Order shall be deemed satisfied upon Respondent's receipt of written notice from EPA that Respondent has demonstrated, to the satisfaction of EPA, that the terms of this Order have been satisfactorily completed.
93. Respondent may submit to EPA a Certification of Compliance and Request for Termination of this Order, including the necessary documentation to demonstrate that it has met all requirements of this Order. If, following review of a Certification of Compliance and Request for Termination of this Order, EPA agrees that Respondent has adequately complied with all requirements of this

Order, EPA shall provide written notification of termination of this Order as described in immediately preceding paragraph.

**VII. EFFECTIVE DATE**

94. This Order shall become effective ten (10) days from the date of receipt of this Order, or, if a conference is requested per Section V above, this Order shall become effective ten (10) days after the conference is held.

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*[Digital Signature and Date]*

Karen Melvin, Director

Enforcement and Compliance Assurance Division

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
PHILADELPHIA, PENNSYLVANIA 19103**

<b>IN THE MATTER OF:</b>	)	
	)	
<b>Brenton County Public Service District</b>	)	<b>Docket No. SDWA-03-2022-0069DS</b>
	)	
<b>Respondent.</b>	)	<b>ADMINISTRATIVE ORDER</b>
	)	
	)	<b>Proceedings Pursuant to Section 1414(g)</b>
<b>PWS ID No. WV3305504</b>	)	<b>of the Safe Drinking Water Act, as</b>
<b>PO Box 394</b>	)	<b>amended, 42 U.S.C. § 300g-3(g)</b>
<b>Brenton, WV 24818</b>	)	
	)	
<b>System.</b>	)	

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**CERTIFICATE OF SERVICE**

I certify that the foregoing Order for Compliance was filed with the EPA Region III Regional Hearing Clerk on the date that has been electronically stamped on the Order for Compliance. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing Order for Compliance to each of the following persons, in the manner specified below, at the following addresses:

Copies served via overnight mail and certified mail to:

Brenton County Public Service District  
P.O Box 394  
Brenton, WV 24818

Copies served via email to:

Natalie Katz, Sr. Assistant Regional Counsel  
U.S. EPA, Region III  
katz.natalie@epa.gov

Lesly Huerta, Enforcement Officer  
U.S. EPA, Region III  
huerta.lesly@epa.gov

\_\_\_\_\_  
[Digital Signature and Date]  
U.S. Environmental Protection Agency  
Region III