

EPA ORGANIZATION

Internal deliberative pre-decisional - FOR USE BY 2024 PRESIDENT-ELECT TRANSITION TEAM MEMBERS ONLY

City of Newark and Passaic Valley Water Commission Referrals

ISSUE SUMMARY:

The City of Newark and PVWC's failure to achieve compliance with the uncovered finished water storage requirements of the SDWA.

KEY POINTS:

Background:

- On January 5, 2006, the EPA promulgated the Long Term 2 Enhanced Surface Water Treatment Rule (LT2), 40 CFR Part 141, Subpart W, pursuant to its authority under the SDWA. The LT2 rule supplements existing microbial treatment requirements and protects the public from illness caused by *Cryptosporidium* and other microbial pathogens in drinking water. LT2 specifically addresses the risks to public health from uncovered finished water reservoirs (UCFWRs) by requiring public water systems to cover or treat the water in such storage facilities to achieve inactivation or removal of at least 4-log virus, 3-log *Giardia lamblia*, and 2-log *Cryptosporidium*, or be in compliance with a state-approved schedule to meet these conditions by April 1, 2009, 40 CFR §141.714.
- Newark's Cedar Grove Reservoir and the Great Notch, Levine and New Street Reservoirs owned by PVWC are UCFWRs and are subject to the LT2 rule.
- Both PVWC and Newark serve environmental justice communities (i.e. Paterson, Passaic, Newark).
- Both water suppliers have been under state Administrative Consent Orders (ACOs) since April 1, 2009, to evaluate the best compliance alternative and subsequently comply with the regulatory requirement.
- The state ACOs recognized the complexity of the projects and allowed the water suppliers the time needed to evaluate the compliance options from engineering and cost perspectives; however, fifteen years later neither system has selected a compliance option. Therefore, an actual compliance schedule does not exist for the two largest UCFWRs, Cedar Grove and Great Notch.
- The existing enforcement actions are not proper compliance schedules under LT2, since they do nothing to further compliance with the regulatory requirement at the Cedar Grove and Great Notch Reservoirs. PVWC and the City of Newark share an overlapping and inter-dependent water system. In an effort to explore the possibility of a mutually beneficial compliance alternative and obtain compliance, in 2017, Newark and PVWC executed a Memorandum of Understanding (MOU) to evaluate a joint solution to address the Cedar Grove and Great Notch Reservoirs.
- In accordance with the MOU, a joint Newark-PVWC feasibility study was finalized in April 2021.

- PVWC’s progress toward compliance has been repeatedly delayed due to community opposition stemming from aesthetic concerns over losing a “water view” as well as historic preservation issues.
- Newark’s progress toward compliance has been complicated, in part, by the reliance of many neighboring municipalities on the storage capacity of Cedar Grove Reservoir as a critical component of New Jersey’s regional water supply infrastructure.
- PVWC has publicly acknowledged that the UCFWRs have affected their ability to control lead levels in the drinking water. PVWC has exceeded the lead action level on several occasions in the past, most recently in 2016. Phosphate, a commonly used and effective corrosion inhibitor, is not a viable treatment option for systems with UCFWRs due to its side effect of increasing microbial growth when exposed to the environment. This leaves PVWC with fewer and potentially less effective treatment options.
- On September 1, 2021, PVWC’s New Street Reservoir was contaminated with stormwater runoff as a result of flooding from Hurricane Ida. A boil water advisory was issued for the Cities of Paterson, Passaic and parts of Clifton and Woodland Park, affecting 230,000 people. The boil water advisory was ultimately lifted after forty-three (43) days; however, cleaning the reservoir and providing bottled water to affected customers has cost the utility millions of dollars. The effects of climate change and increasing frequency of severe weather events only increase the likelihood of similar problems at UCFWRs in the future.
- On July 19, 2022, NJDEP advised Newark that the joint venture proposal to use best management practices and UV treatment at the Cedar Grove Reservoir is insufficient and that an alternative, such as partial cover and tanks, needs to be developed and implemented.
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ONGOING/UPCOMING REVIEWS FOR FY2025:

KEY EXTERNAL STAKEHOLDERS:

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| <input type="checkbox"/> Congress | <input type="checkbox"/> Industry | <input checked="" type="checkbox"/> States | <input type="checkbox"/> Tribes | <input checked="" type="checkbox"/> Media | <input type="checkbox"/> Other Federal Agency |
| <input type="checkbox"/> NGO | <input checked="" type="checkbox"/> Local Governments | <input checked="" type="checkbox"/> Public | | | |

MOVING FORWARD:

- On May 2, 2024, after review of additional water quality data submitted by the City, NJDEP reaffirmed that Newark must cover or treat the water discharged from the Cedar Grove Reservoir. The letter also requires Newark to submit a proposal and schedule for LT2 compliance within 60 days.
- EPA is working with stakeholders to develop a plan to bring Newark and PVWC into compliance with the LT2 rule.