West Virginia (WV) Department of Health and Human Resources (DHHR)

Title VI Responsibilities

Title VI of the Civil Rights Act of 1964 prohibits recipients of federal financial assistance from discriminating against or otherwise excluding individuals on the basis of race, color, or national origin in any of their activities. Section 601 of Title VI, 42 U.S.C. §2000d, provides: No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

WV DHHR Receives EPA Federal Funds

Federal EPA money supports the programs and activities of WV DHHR's Environmental Engineering Division, the primary agency designated to carry out the provisions of the federal "Safe Drinking Water Act," and for assuring that the state's 2,000 public drinking water supplies provide a reliable supply of safe drinking water to approximately 1,387,000 individuals.

Specific activities of this division include:

- Project Review and Approval: provides about 500 technical engineering reviews each year for new or renovated systems;
- Construction Permits: issues about 275 permits each year to construct new or renovated systems based upon engineering reviews;
- Lead/Copper/Corrosion Control: provides technical assistance to assure systems are testing for lead and copper contamination and that proper treatment is occurring.
- Data Management/Compliance: reviews approximately 40,000 monitoring reports for routine testing of more than 200 specific contaminants, and assures that compliance activities are undertaken to correct violations; provides on-site technical assistance and public notices if public health is threatened;
- Enforcement: provides for court action when needed to formally resolve violations, including about 80 Boil Water Orders placed on systems each year in cases where waterborne disease is possible;
- Water Well Driller training and Certification: provides training, examination and certification of drillers;
- Water system Operator Training Testing and Certification: provides training, testing and certification for public water system operators;
- Wellhead Protection: provided technical expertise for community wellhead protection programs in area of hydro geology, geology, hydraulic characteristics, modeling and simulation;
- Public Wastewater Systems: provides oversight for the location, design, construction and operation of large, municipal wastewater systems, including training for about 500 and certification for about 125 operators each year;

Here is the link to the WV DHHR 2018 Annul Report to EPA on Drinking Water State Revolving Fund (DWSRF) program activities and disbursements.

http://www.wvdhhr.org/oehs/eed/iandcd/Documents/Drinking_Water_State_Revolving_Fund_Annual_Reports/2018%20Annual%20Report.pdf
WV DHHR also receives EPA Federal funds via the Drinking Water Treatment Revolving Fund (DWTRF). This program activity provides no-nterest or low-interest loans to Local Government Agencies and other eligible providers to assist in financing drinking water infrastructure projects, including but not limited to, treatment, distribution, transmission, storage, and extensions. As of June 30, 2019, the Bureau for Public Health (BPH) within the WV DHHR had been awarded twenty-three capitalization grants from the EPA totalling $213 million. (p. 7 http://wvwda.org/pdf/WDA2019AnnualReport.pdf).

ISSUE: WV DHHR nondiscrimination procedures only connect to USDA programs, such as WIC and SNAP. EPA-funded programs at DHHR are not covered or considered.

On the main DHHR page, https://dhhr.wv.gov/Pages/default.aspx the tab title: How Do I…File A Civil Rights Complaint? takes you to:
https://dhhr.wv.gov/Documents/DHHR%20Civil%20Rights%20Discrimination%20Complaint%20Form%20IG-CR-3%20.pdf which instructs on how to file a program complaint using the USDA Program Discrimination Complaint Form, (AD-3027), found online at:
http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form.

PROBLEM: PUBLIC WATER SYSTEMS AT RISK

WV DHHR implements Title 64, Series 03, Public Water Supply Regulations that contain specific state requirements and adopt federal regulations under CFR141 as required by the EPA Office of Ground Water and Drinking Water. The absence of a nondiscrimination policy and program at DHHR that considers the public's need for nondiscriminatory information in regards to Safe Drinking Water puts not only the public but the water systems themselves at risk. This is most problemmatic for Limited English Proficiency (LEP) community members whos very lives may be at risk if they cannot read mailed Boil Water Notices or Consumer Confidence Reports provided to them by their public wate utilities.

Two examples.

1. ANNUAL CONSUMER CONFIDENCE REPORT
   Walnut Grove Utilities, Jefferson Utility, Inc. (JUI), Kearneysville, WV

This brochure is a snapshot of the quality of the water that we provided last year. Included are the details about where your water comes from, what it contains, and how it compares to Environmental Protection Agency (EPA) and state standards.

https://www.juiwater.net/wp-content/uploads/2019/08/WALNUT-GROVE-UTILITIES-WV3301942-2018-ccr.pdf

The WVDHHR, Office of Environmental Health, instructions to Water Utilities on required format and content of Annual Consumer Confidence Reports makes no mention of nondiscrimination

policy, nor information to LEPs on how to access such important information in their native language.

http://www.wvdhhr.org/oehs/eed/ccrinstr.pdf

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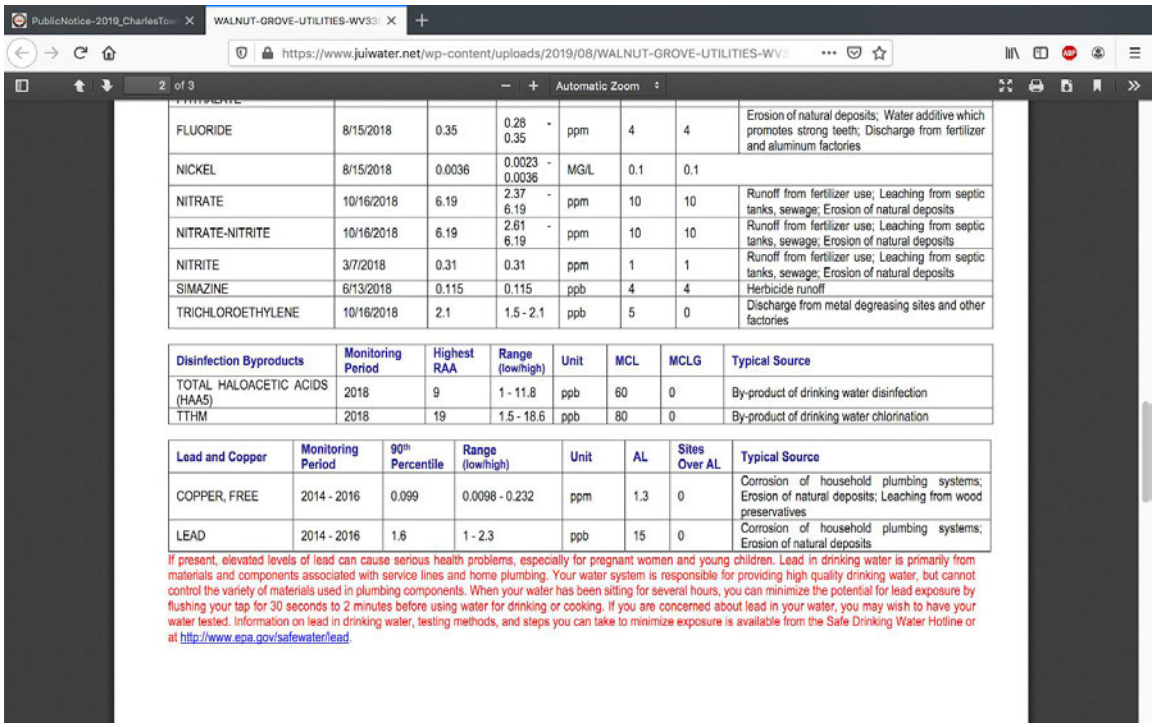

FLUORIDE	8/15/2018	0.35	0.28 - 0.35	ppm	4	4	Erosion of natural deposits; Water additive which promotes strong teeth; Discharge from fertilizer and aluminum factories
NICKEL	8/15/2018	0.0036	0.0023 - 0.0036	MG/L	0.1	0.1	
NITRATE	10/16/2018	6.19	2.37 - 6.19	ppm	10	10	Runoff from fertilizer use; Leaching from septic tanks, sewage; Erosion of natural deposits
NITRATE-NITRITE	10/16/2018	6.19	2.61 - 6.19	ppm	10	10	Runoff from fertilizer use; Leaching from septic tanks, sewage; Erosion of natural deposits
NITRITE	3/7/2018	0.31	0.31	ppm	1	1	Runoff from fertilizer use; Leaching from septic tanks, sewage; Erosion of natural deposits
SIMAZINE	6/13/2018	0.115	0.115	ppb	4	4	Herbicide runoff
TRICHLOROETHYLENE	10/16/2018	2.1	1.5 - 2.1	ppb	5	0	Discharge from metal degreasing sites and other factories

Disinfection Byproducts	Monitoring Period	Highest RAA	Range (low/high)	Unit	MCL	MCLG	Typical Source
TOTAL HALOACETIC ACIDS (HAA5)	2018	9	1 - 11.8	ppb	60	0	By-product of drinking water disinfection
TTHM	2018	19	1.5 - 18.6	ppb	80	0	By-product of drinking water chlorination

Lead and Copper	Monitoring Period	90th Percentile	Range (low/high)	Unit	AL	Sites Over AL	Typical Source
COPPER, FREE	2014 - 2016	0.099	0.0098 - 0.232	ppm	1.3	0	Corrosion of household plumbing systems; Erosion of natural deposits; Leaching from wood preservatives
LEAD	2014 - 2016	1.6	1 - 2.3	ppb	15	0	Corrosion of household plumbing systems; Erosion of natural deposits

If present, elevated levels of lead can cause serious health problems, especially for pregnant women and young children. Lead in drinking water is primarily from materials and components associated with service lines and home plumbing. Your water system is responsible for providing high quality drinking water, but cannot control the variety of materials used in plumbing components. When your water has been sitting for several hours, you can minimize the potential for lead exposure by flushing your tap for 30 seconds to 2 minutes before using water for drinking or cooking. If you are concerned about lead in your water, you may wish to have your water tested. Information on lead in drinking water, testing methods, and steps you can take to minimize exposure is available from the Safe Drinking Water Hotline or at http://www.epa.gov/safewater/lead.

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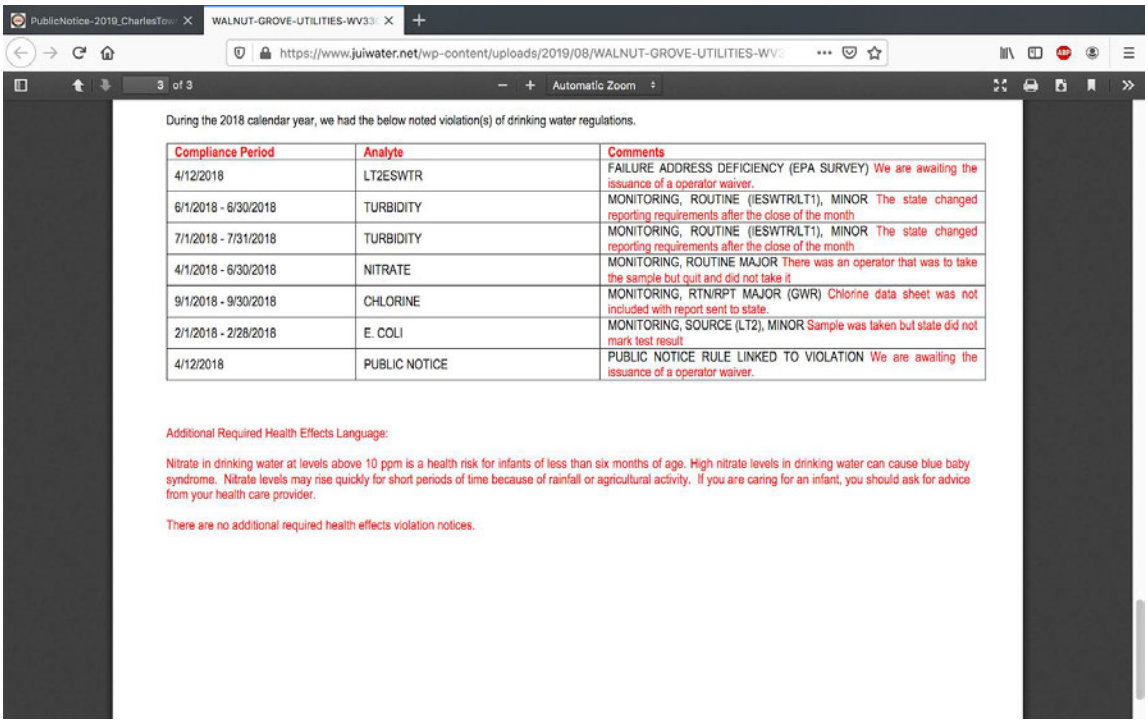

During the 2018 calendar year, we had the below noted violation(s) of drinking water regulations.

Compliance Period	Analyte	Comments
4/12/2018	LT2ESWTR	FAILURE ADDRESS DEFICIENCY (EPA SURVEY) We are awaiting the issuance of a operator waiver.
6/1/2018 - 6/30/2018	TURBIDITY	MONITORING, ROUTINE (IESWTR/LT1), MINOR The state changed reporting requirements after the close of the month
7/1/2018 - 7/31/2018	TURBIDITY	MONITORING, ROUTINE (IESWTR/LT1), MINOR The state changed reporting requirements after the close of the month
4/1/2018 - 6/30/2018	NITRATE	MONITORING, ROUTINE MAJOR There was an operator that was to take the sample but quit and did not take it
9/1/2018 - 9/30/2018	CHLORINE	MONITORING, RTN/RPT MAJOR (GWR) Chlorine data sheet was not included with report sent to state.
2/1/2018 - 2/28/2018	E. COLI	MONITORING, SOURCE (LT2), MINOR Sample was taken but state did not mark test result
4/12/2018	PUBLIC NOTICE	PUBLIC NOTICE RULE LINKED TO VIOLATION We are awaiting the issuance of a operator waiver.

Additional Required Health Effects Language:

Nitrate in drinking water at levels above 10 ppm is a health risk for infants of less than six months of age. High nitrate levels in drinking water can cause blue baby syndrome. Nitrate levels may rise quickly for short periods of time because of rainfall or agricultural activity. If you are caring for an infant, you should ask for advice from your health care provider.

There are no additional required health effects violation notices.

least, the required Health Warning (in red, below) about elevated levels of lead for pregnant women and young children and the Health Warning (in red, below) on nitrate in drinking water affecting children under six months needs to be accessible to LEPs in the community.

2. PUBLIC NOTICE: CHANGE OF WATER TREATMENT
Charles Town Utility Board (CTUB), Charles Town, WV

Dec. 10, 2019, CTUB sent the following notice to their drinking water customers.

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

CHARLES TOWN UTILITIES, WV3301905, Exceeded Maximum Contaminant Level (MCL) for Total Trihalomethanes. Our water system recently violated a drinking water standard. Although this is not an emergency, you, as our customers have the right to know what happened, what you should do, and what we are doing to correct the situation. We routinely monitor for the presence of drinking water contaminants. Test results for 7/1/2019 through 9/30/2019 show that our system exceeds the standard or maximum contaminant level (MCL) for Total Trihalomethanes.

http://www.ctubwv.com/default/assets/File/PublicNotice-2019_CharlesTown_WV_v2_WEB(1).pdf

Within the notice they state that they are changing their water treatment method and that the following subpopulations may be adversely affected:

Dialysis patients and Dialysis Centers. Kidney dialysis patients must have chloramines removed from the water they use in dialysis machines. Depending on the method of chlorine removal a patient now uses, some modifications to this process may be necessary to remove chloramines. Patients should check with their dialysis physician who can recommend the proper type of water treatment.

Aquarium, Fish, Amphibians & Reptile Owners. Since many aquatic animals take chloramines directly from the water into their bloodstream, chloramines must be removed from the water used by your fish and other aquatic animals…Chloramines will not dissipate. Water conditioners specifically designed for removing chloramines are commercially available. Pet stores and pet suppliers should be able to provide information on de-chloramination products and instructions.

Businesses Requiring High Purity Water. Businesses such as laboratories, microchip manufacturers, photography labs and pharmaceutical companies may be affected. These businesses should contact a water treatment professional or an equipment supplier to review their water needs and potential impact.

They also made the following odd request:

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools and businesses.) You can do this by posting this notice in a public place or distributing copies by hand or mail.

But CTUB themselves did not go to apartments, nursing homes, schools and businesses, not did they post the notice in a public place. They did not make the effort to translate the notice into any other language or to have any procedure in place for LEP community members to ask for a translated copy.

Complaint

Rural Agricultural Defenders (RAD) hereby informs EPA ECRO that WV DHHR is non-compliant with the Title VI Civil Rights Act nd requests the ECRO directs DHHR to address this noncompliance, which we contend is a public health threatening situation.

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3/19/20

Date

Jennifer J. King
Rural Agricultural Defenders, Chair