



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY
GRAND RAPIDS DISTRICT OFFICE



LIESL EICHLER CLARK
DIRECTOR

August 23, 2019

Mr. Ellis Mitchell
City of Benton Harbor
200 Wall Street
Benton Harbor, Michigan 49022

WSSN: 00600

Dear Mr. Mitchell:

SUBJECT: **VIOLATION NOTICE** - Monitoring and Reporting for Lead and Copper, Water Quality Parameters (WQP), and Synthetic Organic Chemicals (SOC)

The records of the Department of Environment, Great Lakes, and Energy (EGLE), Drinking Water and Environmental Health Division (DWEHD), show that the City of Benton Harbor (City) is in violation of the Safe Drinking Water Act, 1976 PA 399, as amended (Act 399); specifically, R 325.10710a, *Lead and copper in tap water; monitoring requirements*; R325.10710b, *Monitoring requirements for water quality parameters*; R 325.10717, *Collection and analysis of samples for synthetic organic chemicals*; and R 325.10734, *Required reporting to the department*.

Monitoring and Reporting for Lead and Copper

In response to a 2018 lead action level exceedance, the City is required to conduct lead and copper tap sampling at 60 sites every six months, have the samples analyzed for lead and copper, and report the results and associated reporting form to EGLE. These requirements were outlined in an October 22, 2018 lead action level (ALE) notice letter. EGLE records show the City collected valid lead and copper compliance samples from 46 of the required 60 sites during the January 1, 2019, through June 30, 2019 monitoring period.

Benton Harbor has contended that only 40 sites should be required based on serving a population fewer than 10,000 people. However, EGLE determined that due to the population being very close to the threshold, and to be most protective of public health, the City would remain in the current sampling bracket for lead and copper. Because the 2018 lead action level was based on a reduced number of 30 sites, EGLE determined a set of 60 (standard number of sites) was appropriate when conducting the increased monitoring triggered by the ALE. Based on the ongoing nature of the ALE and the number of sites testing above the action level, EGLE will continue to require sampling at 60 sites until compliance with lead ALE is achieved.

EGLE's investigation consisted of a review of DWEHD files for laboratory reports received for compliance monitoring. EGLE's investigation into this violation is considered complete. Benton Harbor was out of compliance on July 1, 2019. **To return to compliance, the City must collect samples from 60 sites in the distribution system during the monitoring period of July 1, 2019 to December 31, 2019**, have them analyzed for lead and copper, and submit the results and associated reporting form to EGLE.

Monitoring and Reporting for Water Quality Parameters

In the October 22, 2018 letter referenced above, EGLE also notified the City of the requirement to collect two sets of samples (collected at least 24 hours apart) from ten locations in the distribution system and have them analyzed for specified water quality parameters (WQP). These samples are due every six months until both action levels are met.

EGLE received two sets of samples collected on February 13 and 26, 2019; however, only nine (9) of the required ten (10) samples were reported for both dates. Furthermore, one site on the February 13 sample date did not include a pH reading.

EGLE's investigation consisted of a review of DWEHD files for laboratory reports received for compliance monitoring. Our investigation into this violation is considered complete. The violation began on July 1, 2019 and ended when Benton Harbor returned to compliance by conducting the required sampling on July 3, 2019.

Monitoring and Reporting for Synthetic Organic Chemicals (SOC)

Benton Harbor was required to monitor for SOC's at the entry point to the distribution system between April and June 2019 and report the results to EGLE. The City was notified of this requirement in the 2019 monitoring schedule sent in March 2019. EGLE has not received results of this required monitoring.

EGLE's investigation consisted of a review of DWEHD files for laboratory reports received for compliance monitoring. EGLE's investigation into this violation is considered complete. The City was out of compliance on July 1, 2019. Because the City failed to sample for SOC's multiple times in 2018 and 2019 (April to June 2018, July to September 2018, and April to June 2019), **the City is being placed on quarterly monitoring effective immediately.**

Public Notification

Administrative Rule R 325.10404, *Tier 3 public notice; form, manner, and frequency of notice*, of Act 399 requires that suppliers provide public notice, not later than 12 months after learning of a violation, by mail or direct delivery and by any other means reasonably calculated to reach customers not normally reached by mail. Enclosed is a sample public notice.

Please notify your consumers by August 16, 2020, and send us a signed and dated copy of the issued notice within ten days of distribution. These violations must be included in your 2019 Consumer Confidence Report (CCR), which is due by July 1, 2020. You may use your 2019 CCR as the vehicle to post the public notice provided the CCR will be delivered to Benton Harbor customers within 12 months of learning of these violations.

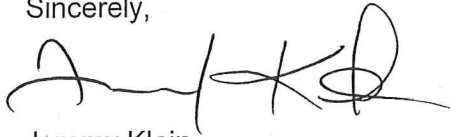
Fines

EGLE is authorized under Section 7 of Act 399, MCL 325.1007, to issue fines for public water supply monitoring and reporting violations. Because the SOC monitoring violation occurred within 12 months of the previous SOC violation, **the City will soon receive an invoice under separate cover for a fine of \$200 for this violation.** Furthermore, failure to issue a public notice for this violation may result in a fine of at least \$200 per event. Additional violations are subject to fines of increasing amounts. If you would like more information on the DWMAD administrative fines policy, contact me at the email address listed below.

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If you have any factual information you would like the EGLE to consider regarding the violations identified in this Violation Notice, please provide it in a written response to this office by September 13, 2019.

Sincerely,



Jeremy Klein
Environmental Quality Analyst
Grand Rapids District Office
Drinking Water and Environmental Health Division
616-250-1053



Ernie Sarkipato
Surface Water Treatment Specialist
Grand Rapids District Office
Drinking Water and Environmental Health Division
616-307-0261

Enclosure

cc/enc: Mr. Michael O'Malley, Water Superintendent, Benton Harbor
cc: Mr. Mike Bolf, P.E., Engineering Unit Supervisor, EGLE (via email)
Ms. Maureen Nelson, Enforcement Specialist, EGLE (via email)

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

Monitoring Requirements Not Met for Benton Harbor

We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not our drinking water meets health standards. During January 1, 2019, to June 30, 2019, we did not monitor correctly for lead and copper or water quality parameters. From April 1, 2019 to June 30, 2019, we did not monitor as required for synthetic organic chemicals. These violations **do not** pose a threat to the quality of the supply's water.

What should I do? There is nothing you need to do at this time related to these monitoring violations. This is not an emergency. Even though this is not an emergency, as our customers, you have a right to know what happened and what we are doing to correct the situation. **NOTE: This notice does not address the City's recent lead action level exceedance. Please review your lead action level exceedance educational materials for steps you can take to reduce your exposure to lead.**

The table below lists the contaminants we did not properly test for, how often we are supposed to sample for these contaminants, how many samples we are supposed to take, how many samples we took, when samples should have been taken, and the date we will collect follow-up samples.

Contaminants	Required sampling frequency	Number of samples taken	When samples should have been collected	Date additional samples will be collected
Lead and Copper	60 sites to be sampled every 6 months	46 sites were sampled	January 1, 2019 to June 30, 2019	July 1, 2019 to December 31, 2019
Water Quality Parameters (pH, alkalinity, calcium, conductivity, temperature, sulfate and chloride)	Two sets of 10 samples (20 total)	Two sets of 9 samples (18 total) with one sample missing pH	January 1, 2019 to June 30, 2019	Already collected and have returned to compliance
Synthetic Organic Chemicals	2 nd and 3 rd quarter of 2019	0 collected during the 2 nd quarter	April 1, 2019 to June 30, 2019	July 1, 2019 to September 30, 2019

What happened? What is being done? We missed taking some of our required lead and copper samples this sampling period. We are making every effort to assure this does not happen again. We also missed taking two of our required 20 samples for water quality parameters, but we sampled as soon as possible and have returned to compliance. We also missed sampling for synthetic organic chemicals during the required monitoring period, but a sample was collected on _____.

For more information, please contact Mr. Mike O'Malley, Operator-In-Charge, at 269-927-8471.

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.

This notice is being sent to you by Benton Harbor.

CERTIFICATION:

WSSN: 00600

I certify that this water supply has fully complied with the public notification regulations in the Michigan Safe Drinking Water Act, 1976 PA 399, as amended, and the administrative rules.

Signature: _____ Title: _____ Date Distributed: _____