

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

IN THE MATTER OF)	DOCKET NO. CWA-AO-R01-FY22-18
)	
Town of Troy, New Hampshire)	FINDINGS OF VIOLATION
NPDES Permit No. NHG580001)	
)	AND
Proceedings under Sections 308(a) and)	
309(a)(3) of the Clean Water Act,)	ORDER OF COMPLIANCE
as amended, 33 U.S.C. §§ 1318 and)	
1319(a)(3))	

I. STATUTORY AUTHORITY

The following FINDINGS are made, and ORDER issued pursuant to Section 308(a) and Section 309(a)(3) of the Clean Water Act, (the “Act”), 33 U.S.C. §§ 1318, 1319(a)(3). Section 309(a)(3) of the Act grants the Administrator of the U.S. Environmental Protection Agency (“EPA”) the authority to issue orders requiring persons to comply with Sections 301, 302, 306, 307, 308, 318 and 405 of the Act and any permit condition or limitation implementing any of such sections in a National Pollutant Discharge Elimination System (“NPDES”) permit, issued under Section 402 of the Act, 33 U.S.C. § 1342. Section 308(a) of the Act, 33 U.S.C. § 1318(a), authorizes EPA to require the submission of any information required to carry out the objectives of the Act. These authorities have been delegated to the EPA Region 1 Administrator, and, in turn, to the EPA, Region 1 Director of the Enforcement and Compliance Assurance Division (the “Director”).

The Order herein is based on findings of violation of Section 301 of the Act, 33 U.S.C. § 1311, and the conditions of NPDES Permit No. NHG580001. Pursuant to Section 309(a)(5)(A) of the Act, 33 U.S.C. § 1319(a)(5)(A), the Order provides a schedule for compliance that the Director has determined to be reasonable.

II. DEFINITIONS

Unless otherwise defined herein, terms used in this Order shall have the meaning given to those terms in the Act, 33 U.S.C. §§ 1251 *et seq.*, the regulations promulgated thereunder, and any

applicable NPDES permit. For the purposes of this Order, “NPDES Permit” means the Town of Troy NPDES Permit, No. NHG580001 and all amendments and modifications thereto, and renewals thereof, as are applicable and in effect at the time.

III. FINDINGS

The Director makes the following findings of fact:

1. The Town of Troy (the “Town” or “Permittee”), established under the laws of the State of New Hampshire, is a “municipality” as defined in Section 502(4) of the Act, 33 U.S.C. § 1362(4).
2. The Town is a person under Section 502(5) of the Act, 33 U.S.C § 1362(5). The Town is the operator of a Wastewater Treatment Facility (“WWTF”) from which it discharges pollutants, as defined in Sections 502(6) and (12) of the Act, 33 U.S.C. §§ 1362(6) and (12), from a point source, as defined in Section 502(14) of the Act, 33 U.S.C. § 1362(14), to the South Branch of the Ashuelot River.
3. The South Branch of the Ashuelot River is a “navigable water” under Section 502(7) of the Act, 33 U.S.C. § 1362(7).
4. On September 28, 2021, EPA Region 1 issued the Small Wastewater Treatment Facilities General Permit (NPDES Permit No. NHG580000) (the “General Permit”) for eligible WWTFs that discharge wastewater from a Publicly Owned Treatment Works (“POTW”) and other treatment works that treat domestic sewage. The General Permit became effective on April 1, 2022.
5. The NPDES Permit authorizes the Town of Troy to discharge pollutants, including total recoverable copper, total phosphorus and ammonia nitrogen, from outfall serial number 001, to the South Branch of the Ashuelot River, subject to the effluent limitations, monitoring requirements and other conditions specified in the NPDES Permit. Part III.A of the Permit establishes effluent limitations and monitoring requirements for the discharge of treated effluent from outfall serial number 001.
6. The Town is subject to a Total Recoverable Copper monthly average concentration limit of 3.1 µg/L, and daily maximum concentration limit of 4.2 µg/L.
7. The Town is subject to a Total Phosphorus monthly average load limit of 0.34 lb/day from April 1st to October 31st.

8. The Town is subject to an Ammonia Nitrogen monthly average concentration limit of 4.2 mg/L and a monthly average load limit of 9.3 lb/day from May 1st to September 30th; and a monthly average concentration limit of 13.2 mg/L and a monthly average load limit of 29.2 lb/day from October 1st to April 30th.
9. From at least April 1, 2022 through the present, in violation of the NPDES permit, the Town has discharged wastewater containing total recoverable copper, total phosphorus and ammonia nitrogen, in concentrations and loadings greater than the effluent limitations for outfall serial number 001 contained in the NPDES Permit.
10. Section 301(a) of the Act, 33 U.S.C. § 1311(a), makes unlawful the discharge of pollutants to waters of the United States except in compliance with, among other things, the terms and conditions of an NPDES permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342.
11. The Town's discharges of pollutants from the WWTF to the South Branch of the Ashuelot River in excess of the effluent limits for total recoverable copper, total phosphorus and ammonia nitrogen contained in the NPDES Permit, have occurred in violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

IV. ORDER

Accordingly, pursuant to Sections 308 and 309(a)(3) of the Act, it is hereby ordered that the Town shall:

1. Within 24 months of the effective date of this Order submit to EPA and NHDES a Copper and Nutrient Reduction Report ("the copper/nutrient report"). The submitted report shall:
 - i. analyze new and existing technologies for improving total recoverable copper and nutrient removal from the treatment plant effluent,
 - ii. propose modifications to current work practices to improve the removal of total recoverable copper and nutrients from the treatment plant effluent,
 - iii. review alternatives to better remove copper and nutrients from the treatment plant effluent,
 - iv. provide the relative costs associate with each technology or modification of a current work practice,

- v. provide recommendation(s), associated costs and schedules for implementation for achieving total recoverable copper and nutrient limits at the treatment plant.
2. Until further notice, beginning January 31, 2023, and each January 31st annually, thereafter, submit the Annual Optimization Report Update (“Annual Report”) to EPA and NHDES. The report shall detail all actions taken during the prior calendar year by the Town or known by the Permittee to have been taken by other parties, including water suppliers as applicable, to further optimize the removal of total recoverable copper, total phosphorus, and ammonia as nitrogen from the treatment plant effluent. The Annual Report shall also address all of the items specified in Attachment #1 and must specifically include trend analysis of both influent and effluent total copper loadings. The Annual Report shall include a calculation of total copper, total phosphorous and ammonia nitrogen discharges from the WWTF during the prior calendar year.
3. The schedules described in Part IV. of this Order shall be incorporated and enforceable hereunder.
4. All work pursuant to this Order shall be performed using sound engineering practices to ensure that construction, management, operation and maintenance of the Town’s WWTF, complies with the CWA.

Interim Limits and Monitoring Requirements

5. Upon the effective date of this Order, the Permittee shall, at a minimum, comply with the interim effluent limitations for total recoverable copper, total phosphorus and ammonia nitrogen set forth in Attachment #2 of this Order.
6. The Permittee shall comply with all other effluent limitations, monitoring requirements and other conditions specified in the Permit for the parameters not covered in Part IV of this Order or Attachment #2.

V. NOTIFICATION PROCEDURES

1. Where this Where this Order requires a specific action to be performed within a certain time frame, the Town shall submit to EPA and NHDES a written notice of compliance or noncompliance with such action within seven (7) days following the applicable deadline; however, written notice of compliance is not necessary if the action required by the Order

includes submission of a document, report, or other written material, and the Town has timely submitted such document, report, or written material to EPA and NHDES.

2. If noncompliance is reported, the written notification must include the following information:
 - a. A description of the noncompliance;
 - b. A description of any actions taken or proposed by the Town to comply with the required action;
 - c. A description of any factors that explain or mitigate the noncompliance; and
 - d. The date by which the Town will perform the required action.¹
3. After a notification of noncompliance has been filed, compliance with the past-due requirement shall be reported by submitting all required documents or providing EPA with a written report indicating that the required action has been achieved. Submissions required by this Order shall be in writing and sent via email to the addresses below. EPA or NHDES may request that some items, such as design reports, to be sent in hard copy as well to the following addresses:

U.S. Environmental Protection Agency
Region 1, New England
Enforcement and Compliance Assurance Division
5 Post Office Square – Suite 100
Boston, MA 02109-3912
Attn: Solanch Pastrana-Del Valle
Pastrana-Del-Valle.Solanch@epa.gov

and

New Hampshire Department of Environmental Services
Water Division
Wastewater Engineering Bureau
29 Hazen Drive, P.O. Box 95
Concord, New Hampshire 03302-0095
Attn: Teresa Ptak
Teresa.b.ptak@des.nh.gov

¹ Note that this is not an extension to the original deadline.

VI. GENERAL PROVISIONS

1. This Order does not constitute a waiver or a modification of the terms and conditions of the Town’s NPDES Permit. The Town’s NPDES Permit remains in full force and effect.
2. EPA reserves the right to seek any and all remedies available under Section 309 of the Act, 33 U.S.C. § 1319, as amended, for any violation cited in this Order.
3. The Town may seek federal judicial review of the Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
4. This Order shall become effective upon receipt by the Town.

Date

Karen McGuire, Director
Enforcement and Compliance Assurance Division
EPA Region 1

ATTACHMENT #1

Annual Optimization Report Update Requirements

1. Summarize the current corrosion control program being implemented by the local supplier(s) including the pH level maintained and any corrosion inhibitors used by the supplier(s).
2. Summarize those measures that have been taken to reduce the contributions of copper and nutrients from household domestic wastes, industrial users, institutions and commercial businesses.
3. Summarize those public outreach efforts and public education programs that have been conducted to inform the public of the level of copper and nutrients in household and commercial products, their impact on the publicly-owned treatment works (POTW), and the existence of alternative products.
4. Summarize the specific measures that have been taken by the Permittee, septage haulers, industrial sewer users, local water supplier(s), etc. to reduce the level of copper and nutrients entering, and ultimately discharged from, the POTW including:
 - a. septage and side-stream treatment, or reduction or elimination of the introduction of septage to the POTW;
 - b. further reduction of copper in the water supply through additional or modified corrosion control treatment;
 - c. additional or modified chemical treatment at the POTW, including the use of different treatment chemicals, increased chemical dosing, and multiple chemical addition points at the POTW, for further removal; and,
5. Assess the annual copper and nutrient reduction that has resulted from the implementation of the above measures.

ATTACHMENT #2

Interim Effluent Limits and Monitoring Requirements

The Town shall comply with the following interim effluent limit and monitoring requirement from the effective date of the Order until the date the applicable improvements implemented pursuant to Paragraph IV of this Order are fully operational or by the date that EPA determines that the Town has not complied with the milestones set forth in this Order, whichever is earlier.

<u>Effluent Characteristic</u>	<u>Effluent Limitation</u>			<u>Monitoring Requirements</u>	
	Average Monthly	Average Weekly	Maximum Daily	Measurement Frequency	Sample Type
Total Recoverable Copper	7.0 µg/L	---	9.5 µg/L	2/Month	Grab
Total Phosphorus (April 1 – October 31)	1.63 lb/day	---	Report lb/day	2/Month	Grab
Ammonia Nitrogen (October 1 – April 30)	40.0 mg/L 29.2 lb/day	---	Report mg/L Report lb/day	1/Week	Grab
Ammonia Nitrogen (May 1 – September 30)	34.5 mg/L 24.0 lb/day	---	Report mg/L Report lb/day	1/Week	Grab