



Cayuga Lake Watershed Intermunicipal Organization

Intermunicipal cooperation to protect the watershed

February 28, 2024

The Honorable Kathy Hochul
Governor of New York State
NY State Capitol Building
Albany, NY 12224

Dear Governor Hochul,

Re: Draft Owasco Lake Watershed Rules and Regulations

The Cayuga Lake Watershed Intermunicipal Organization (CWIO) writes to express our deep concern about the State of New York's response to the draft Owasco Lake Watershed Rules and Regulations (draft rules). We believe the revisions diminish protections for Owasco Lake and undermine local efforts to enhance drinking water source protection where state measures fall short.

We commend the state's successes with the expansion of regulatory approaches and voluntary programs targeting water quality in the regions, such as the;

1. 1994 Agricultural environmental management program
2. 1999 and 2009 Concentrated animal feeding operations requirements
3. 2003 Municipal separate storm sewer systems (MS4) requirements
4. 2019 Drinking water source protection program

These programs are indeed important, and we strongly encourage the state to significantly increase funding and staffing for their robust enforcement and implementation. However, climate change threatens to undermine such progress, making a multi-pronged approach essential. To safeguard our drinking water against increasing pressures, we firmly believe stronger protections are needed.

Watershed rules and regulations are a vital element of this protective framework.

We urge the state to uphold Public Health Law Section 1100, Title 10 of the New York Codes, Rules, and Regulations, in which water purveyors are granted the authority to develop and update watershed rules and regulations for the preservation of public drinking water sources and protection from point and nonpoint source pollution.

Who we are:

The Cayuga Lake Watershed Intermunicipal Organization (CWIO)'s mission is to bring local governments in the Cayuga Lake watershed together to work collectively and collaboratively with partner agencies and organizations to monitor, protect, and restore water quality throughout the watershed in the face of a changing world.

The 57 municipalities within the Cayuga Lake watershed recognize the enormous and irreplaceable ecological, economic and social value of Cayuga Lake, its tributaries, and its wetlands. The Cayuga Lake Watershed Intermunicipal Organization (CWIO) brings Cayuga Lake watershed municipalities together to work collectively and collaboratively on monitoring, protecting, and restoring the health of the watershed.

CWIO provides information and guidance to all municipalities regardless of membership status. Member municipalities have voting privileges and will help guide the future of clean water protection for our communities, creeks, and lake. They also have the support of CWIO's Watershed Manager in finding and securing funding for water projects.

Owasco drinking water impacted:

In 2016, the neurotoxin microcystin was detected in the finished drinking water at the City of Auburn and Town of Owasco drinking water plants. The State recognized that existing regulatory and voluntary approaches were not resulting in water quality that met drinking water standards. The State allocated \$2 million to immediately upgrade the treatment processes at both facilities by installing activated carbon filtration systems. The state also launched the Finger Lakes Hub and initiated the development of 12 HABs Action Plans to increase efforts to protect water resources across the region.

The need to update the 1984 rules was recognized. Adopted nearly four decades ago, the 1984 rules addressed the regulatory gaps of the time. A lot has changed since then. Multi-year studies have been completed on the lake and in several tributaries, a 9-Element Plan was approved, and the state implemented regulatory and voluntary approaches to reduce nonpoint source inputs. Despite these efforts, water quality continues to struggle to meet drinking water standards.

Climate change has exacerbated the problem by creating conditions that favor cyanobacteria by warming water bodies and increasing nonpoint source nutrient loading. Cyanobacteria can quickly multiply, leading to harmful algae blooms (HABs). These HABs are more than a nuisance as they can produce dangerous neurotoxins that threaten the safety of recreational areas and public drinking water.

More is needed:

In a letter to the Governor's Office dated Sept. 13, 2023, the Cayuga County Board of Health noted that "increasingly high levels of cyanotoxins have been found in the raw water entering the City of Auburn and the Town of Owasco's water treatment plants" since 2016 (letter attached). Research conducted by Dr. John Halfman and colleagues underscores the inadequacy of the current state regulatory framework and voluntary programs to protect Owasco Lake, stating in the 2022 Owasco Lake Water Quality Report¹ that "water quality in the lake has not significantly improved over the

past decade. This lack of improvement is disturbing in light of the various remediation practices already implemented in the watershed”. The same report further states that “**implementation of the revised Owasco Lake Watershed Rules and Regulations** and reduction strategies outlined in the recently approved 9E Watershed Plan **are critical to the health and wellbeing of the lake.**”

The state’s response:

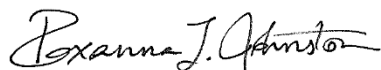
The draft rules were submitted to the state in 2020. Three years later, the State of New York responded with revisions that decreased protection for Owasco Lake. These revisions go so far as to eliminate existing protections that were included in the 1984 rules. The state’s response presumes that existing regulations and voluntary programs provide all that is needed to protect Owasco Lake. However, this position is contradicted by monitoring data¹. This same presumption led the state to remove all language in the draft rules that it viewed as duplicative of existing state regulations. This approach removes local authority to enhance protection of drinking water sources where existing state efforts are not enough. Making these kinds of changes substantially undermines the value of watershed rules and regulations state-wide in violation of Public Health Law Section 1100.

Watershed rules and regulations are intended to safeguard public drinking water, strengthening protections where other programs may be lacking or insufficient, and providing the needed mechanism for enforcement. The Cayuga Lake Watershed Intermunicipal Organization (CWIO) is committed to supporting water purveyors in their efforts to establish or update their watershed rules and regulations.

We urge the state to consistently uphold Public Health Law Section 1100, Title 10 of the New York Codes, Rules, and Regulations, which empowers water purveyors to develop and update WRRs which are an effective tool to protect public drinking water sources from point and nonpoint source pollution, as evidenced by the water supplies for the City of Syracuse and New York City. We further urge the state not to diminish the protections provided in the 1984 Owasco Watershed Rules and Regulations.

Thank you for your time and consideration.

Sincerely,



Roxy Johnston
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¹ Halfman et.al., 2022. Water Quality Report Owasco Lake. P. 41. Finger Lakes Institute, Hobart & William Smith Colleges.



CAYUGA COUNTY BOARD OF HEALTH

Dr. John Cosachov
President

September 13, 2023

The Honorable Kathy Hochul
Governor of New York State
NY State Capitol Building
Albany, NY 12224

Dear Governor Hochul,

The revised draft Owasco Lake Watershed Rules and Regulations by New York State Department of Health (NYSDOH) is a setback to helping protect our lake which serves as the drinking water source for 45,000 residents of Cayuga County. *We are urgently asking that you intervene and direct your State Agencies to re-incorporate the draft rules and regulations as submitted by the Cayuga County Health Department on behalf of the City of Auburn and Town of Owasco water purveyors.*

Data previously sent to your office have shown that the water quality of Owasco Lake, the drinking water source for these residents, continues to decline. Increasingly high levels of cyanotoxins have been found in the raw water entering the City of Auburn and the Town of Owasco's water treatment plants. While we can treat water to remove toxins from harmful algal blooms (HABs), there is a limit to treatment efficacy. Furthermore, despite the treatment, the level of disinfection by-products (DBPs) throughout the vast distribution system increased to record violation inducing levels. This indicates a change in raw water quality.

There is a real concern that as the cyanotoxin levels in the raw water continue to increase, breakthrough of the cyanotoxins into the drinking water will occur, necessitating an issuance of a Do Not Drink order by the Cayuga County Health Department. Such an occurrence would be impactful, to say the least, to the public health of our community. The reverberating effect would be catastrophic to the community.

The Owasco Lake watershed is one of many lakes seeing similar problems with HABs and deteriorating water quality. Therefore, the problem is much larger than only Owasco Lake, and new rules as proposed by NYSDOH will potentially adversely impact hundreds of thousands of people in our state.

In 2016, when low levels of cyanotoxins were found in the drinking water, a first for any public water system in New York State, it was clear that appropriate measures to address the polluting of Owasco Lake and to protect the long-term health of the entire watershed was necessary and, indeed, essential. The only driver of the growth of HABs in Owasco Lake we can control is nutrient loading into the lake. As much as New York State Public Health Law gives the NYSDOH the ability to create rules and regulation for the protection from contamination of any or all public supplies of potable water, one of the important measures taken was to update the existing 1984 rules and regulations. A three-year public process that involved all of the major



CAYUGA COUNTY BOARD OF HEALTH

Dr. John Cosachov
President

stakeholders was initiated to create draft rules and regulations. The draft that was sent to the New York State Department of Health in 2020 was science based and represented a compromise in the spirit of good faith and cooperation.

After three years of continuous delays, the State of New York has finally offered us their version of updated rules and regulations; unfortunately their version ignored the Environmental Protection Agency 9 Element Plan that was prepared under the State's guidance and oversight, the New York State HABs Action Plan for Owasco Lake that was prepared by the State, and the data showing the major sources of contamination within the watershed. The State's version removed essentially all protections. The State's proposal serves as little more than window dressing, is less protective than the current 1984 document, and will prevent the protection of Owasco Lake as a drinking water source.

The New York State Department of Health and New York State government in general has failed the residents of Cayuga County. Clean drinking water is an essential component of public health. All citizens of New York State, including those of Cayuga County, have a right to clean water and a healthful environment.

Sincerely,

A handwritten signature in blue ink, appearing to read "John Cosachov".

John Cosachov, DO, President
Cayuga County Board of Health

cc. Commissioner McDonald, NYSDOH
Commissioner Seggos, NYSDEC
Commissioner Ball, NYSDAM
Senator May
Representative Barclay
Representative Lemondes
Representative Gallahan