



U.S. ENVIRONMENTAL PROTECTION AGENCY-REGION 6

FINDINGS OF VIOLATION AND COMPLIANCE ORDER

In the Matter of: City of Smyer Water System
Owned/Operated by the City of Smyer, Respondent
Docket No. SDWA-06-2021-1204, PWS ID # TX1100010

STATUTORY AUTHORITY

The following findings are made, and Administrative Order issued, under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA), by Section 1414(g) of the Safe Drinking Water Act (Act), 42 U.S.C. § 300g-3(g). The Administrator delegated the authority to issue this Administrative Order to the Regional Administrator of EPA Region 6, who delegated such authority to the Director of the Enforcement and Compliance Assurance Division.

FINDINGS

1. City of Smyer (Respondent) is a “person,” as defined by Section 1401(12) of the Act, 42 U.S.C. § 300f (12).

2. At all times relevant to the violations alleged herein (relevant time period), Respondent owned or operated the City of Smyer Water System, a public water system (PWS), as defined by Section 1401(4) of the Act, 42 U.S.C. § 300f (4), located in Smyer, Hockley County, Texas (“facility”), designated as PWS number TX1100010.

3. As a PWS and a “supplier of water,” Respondent is subject to the regulations promulgated by EPA pursuant to Section 1412 of the Act, 42 U.S.C. § 300g-1, entitled National Primary Drinking Water Regulations (NPDWR).

4. During the relevant time period, Respondent’s PWS is a “community water system” as defined by Section 1401(15) of the Act, 42 U.S.C. § 300f(15).

5. The Texas Commission on Environmental Quality (TCEQ) and EPA have enforcement authority for the PWS provisions of the Act in the State of Texas. TCEQ and EPA have consulted regarding this Order, and it has been agreed that EPA would initiate this enforcement action.

6. Respondent is required to comply with the fluoride requirements of the Act, as set forth in Section 1412 of the Act, 42 U.S.C. § 300g-1.

7. On December 18, 2017, EPA issued an Administrative Order, Docket Number SDWA-06-2018-1219, to Respondent for fluoride maximum contaminant Level (MCL) violations and required submittal of a detailed plan specifying measures to be implemented to bring the PWS back into compliance with the MCL requirements. This Order supersedes the Administrative Order issued on December 18, 2017.

8. Respondent monitored for fluoride during all four quarters from the 1st quarter of 2020 through the 4th quarter of 2020, resulting in a running annual average of 4.65 mg/L that exceeded the fluoride MCL of 4 mg/L in violation of 40 C.F.R. § 141.62(b) (1).

9. In compliance with the previous the EPA Administrative Order, Respondent has 1) provided public notice as required by 40.C.F.R. § 141.201; 2) submitted a plan to EPA detailing how Respondent will return the PWS to compliance with the MCL for fluoride; and 3) provided EPA with an initial progress report on the compliance activities.

10. Respondent is hereby ordered to comply with the terms of the detailed plan submitted by Respondent. The terms of the plan and compliance schedule are hereby incorporated (see paragraph C, below).

SECTION 1414(g) COMPLIANCE ORDER

Based on these findings and pursuant to the authority of Section 1414(g) of the Act, 42 U.S.C. § 300g-3(g), EPA orders Respondent to take the following actions:

A. Respondent shall comply with 40 C.F.R. § 141.31(b) and notify both EPA and TCEQ within forty-eight (48) hours in the event of new fluoride MCL violations.

B. In event of any continued fluoride MCL violation, the Respondent shall, within thirty (30) days of issuance of this Order, provide a public notice of the violations as set forth in 40 C.F.R. § 141.201. Respondent shall submit a copy of the public notice to EPA and TCEQ within forty (40) days of the effective date of this Order.

C. Respondent shall comply with the terms and schedule specified in the plan submitted to EPA. The project timeline shall be followed and completed as Respondent submitted in the detailed plan:

1. Shall begin the building construction by June 1, 2021;
2. Shall begin the installation of treatment system by July 31, 2021;
3. Shall complete the project by December 31, 2021.

D. Respondent must achieve and maintain compliance with 40 C.F.R. § 141.62 (b)(1) by December 31, 2021, the date specified in the plan submitted to EPA.

E. Respondent shall provide EPA with quarterly progress reports within ten (10) days after the end of each calendar quarter regarding activities undertaken pursuant to the plan and shall notify EPA when each activity in paragraph C. 1-3 has been completed.

F. The reporting required by this Order must be provided by Respondent to EPA by emailing moore.jessica@epa.gov or at the following address:

Ms. Jessica Moore
Water Enforcement Branch (6EN-W)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

G. Regarding Parts A and B in the Order Section, Respondent shall submit a copy of the public notice to TCEQ at each of the following addresses:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

and

Public Drinking Water Section
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

GENERAL PROVISIONS

This Order is effective upon receipt by Respondent.

Respondent may seek federal judicial review of the Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

This Section 1414(g) Compliance Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. Part 141 or other applicable federal and state requirements, which remain in full force and effect. Issuance of this Section 1414(g) Compliance Order is not an election by EPA to forego any civil or any criminal action otherwise authorized under the Act.

Violation of any term of this Section 1414(g) Compliance Order may subject Respondent to an administrative civil penalty of up to \$38,175 under Section 1414(g) of the Act, 42 U.S.C. § 300g-3(g), or a civil penalty of not more than \$54,787 per day per violation, assessed by an appropriate United States District Court under Section 1414(g)(3)(A) of the Act, 42 U.S.C. § 300g-3(g)(3)(A).

This Order shall be binding on the PWS cited herein and all its successors and assignees. No change in ownership of the PWS shall alter the responsibility of the PWS under this Order.

Date

Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division