



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

1595 Wynkoop Street  
DENVER, CO 80202-1129  
Phone 800-227-8917  
<http://www.epa.gov/region08>

Ref: 8ENF-W

**SEP 28 2010**

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

The Honorable Bryan Cummings  
Town of Fairview  
P.O. Box 426  
Fairview, MT 59221

Re: Administrative Order  
Docket No. SDWA-08-2010-0069  
PWS ID #MT0000213

Dear Mayor Cummings:

Enclosed is an Administrative Order (Order) issued by the Environmental Protection Agency (EPA) under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300f *et seq.* Among other things, the Order describes how the Town of Fairview (the Town) violated the National Primary Drinking Water Regulations (drinking water regulations).

The Order is effective upon the date received. Please review the Order and within 10 days provide EPA with any information you believe EPA may not have. If the Town complies with the Order for twelve months, EPA may close the Order without further action. Failure to comply with the Order may lead to substantial civil penalties and/or a Federal court injunction ordering compliance.

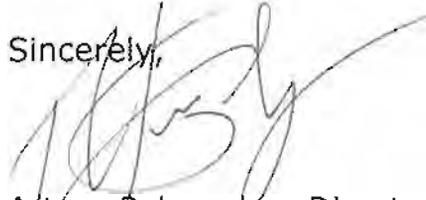
The Order requires the Town to notify the public of having violated the drinking water regulations. EPA has provided paper copies of forms and instructions for providing public notice as an attachment to this document. The requirement to complete future public notices can easily be accomplished with the assistance of the automated system available at the [www.pniwriter.org](http://www.pniwriter.org) website.

To submit information or request an informal conference with EPA, please contact Kimberly Pardue Welch at the above address (with the mailcode 8ENF-W) or by phone at (800) 227-8917, extension 6983 or

(303) 312-6983. For legal questions, the attorney assigned to this matter is Amy Swanson, who may be reached at the above address (with the mailcode 8ENF-L) or by phone at (800) 227-8917, extension 6906 or (303) 312-6906.

We urge your prompt attention to this matter.

Sincerely,



Arturo Palomares, Director  
Water Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosures

Order  
Public notice samples/templates

cc:

John Arrigo, MT DEQ  
Shelley Nolan, MT DEQ  
Tina Artemis, EPA Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2010 SEP 27 AM 9:55

\_\_\_\_\_  
IN THE MATTER OF: )  
 )  
Town of Fairview, )  
 )  
\_\_\_\_\_  
Respondent. )

Docket No. SDWA-08-2010-0069  
ADMINISTRATIVE ORDER

FILED  
EPA REGION VIII  
2010 SEP 27 10 06 AM  
ERK

1. This Order is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by the Safe Drinking Water Act, 42 U.S.C. § 300f *et seq.* (the Act), as properly delegated to the undersigned officials.

2. The Town of Fairview (Respondent) is a municipality that owns and/or operates the Fairview Public Water System (the system), which provides piped water to the public in Richland County, Montana, for human consumption.

3. The system is supplied by a groundwater source consisting of 2 wells. The water is treated with chlorine gas for iron and manganese removal, followed by sulfur dioxide for dechlorination and then passed through a sand filter for particulate removal of the iron and manganese precipitates.

4. The system has approximately 340 service connections used by year-round residents and/or regularly serves an average of approximately 703 year-round residents. Therefore, the system is a "public water system" and a "community water system" as defined in 40 C.F.R. § 141.2 and § 1401 of the Act, 42 U.S.C. § 300f.

5. Respondent is subject to the Act and the National Primary Drinking Water Regulations (drinking water regulations) at 40 C.F.R. part 141. The drinking water regulations are "applicable requirements" as defined in § 1414(i) of the Act, 42 U.S.C. § 300g-3(i).

6. The drinking water regulations include monitoring requirements. The Montana Department of Environmental Quality (MDEQ or the State) has sent Respondent annual notifications of the specific monitoring requirements that apply to the system.

7. The MDEQ has primary enforcement authority for the public water system supervision provisions of the Act in the State of Montana. EPA

issued a notice of the system's violations to the State on August 24, 2010. The State elected not to commence an enforcement action against Respondent for the violations listed in the notice of violation within the thirty-day time frame set forth in § 1414(a) of the Act, 42 U.S.C. § 300g-3(a). EPA has provided a copy of this Order to the State and has provided the State the opportunity to confer with EPA regarding this Order. EPA is issuing this Order requiring the system to comply with the "applicable requirements" it violated. An "applicable requirement" includes requirements of an applicable approved State program, such as Montana's "Public Water Supply Requirements" at Administrative Rules of Montana (ARM) 17.38.101 through 703. 42 U.S.C. § 300g-3(i).

### **VIOLATIONS**

8. Within 30 days after receiving tap monitoring results, Respondent is required to provide notification of a lead tap action level exceedance to the occupants of the residence where the sample was taken. 40 C.F.R. § 141.85(d). Following a September 30, 2009 lead action level exceedance, Respondent failed to provide notification of the lead tap exceedance to occupants of the residences where the samples were taken and, therefore, violated this requirement.

9. Any system which exceeds the lead action level is required to deliver public education materials within 60 days after the end of the monitoring period in which the exceedance occurred. In addition, the Respondent must insert lead action level exceedance information in each consumer's water bill at least once a quarter. 40 C.F.R. § 141.85. Respondent was required to perform public education by November 30, 2009 following a lead action level exceedance on September 30, 2009. Respondent was also required to insert information in consumers' water bills beginning in the first calendar quarter of 2010. Respondent failed to conduct these activities and, therefore, violated these requirements.

10. Any system which exceeds the lead or copper action level is required to collect one source water sample from each entry point to the distribution system within 6 months after the exceedance. 40 C.F.R. § 141.88(b). Respondent failed to collect source water samples by March 30, 2010 following a lead action level exceedance on September 30, 2009, and, therefore, violated this requirement.

11. Any system which exceeds the lead or copper action level is required to develop and submit an optimal corrosion control treatment recommendation and a source water treatment recommendation to the State within 6 months of the exceedance. 40 C.F.R. §§ 141.81(e)(1), 141.82 and 141.83. Respondent failed to submit an optimal corrosion control treatment recommendation and source water treatment recommendation to the State by March 30, 2010 following a lead action level exceedance on September 30, 2009, and, therefore, violated these requirements.

12. Any system which exceeds the lead or copper action level at the tap is required to monitor for lead and copper during consecutive 6 month periods (January – June and July – December). 40 C.F.R. § 141.86(d)(4). Respondent failed to monitor for lead and copper during the January 1, 2010 through June 30, 2010 monitoring period following a lead action level exceedance on September 30, 2009, and, therefore, violated this requirement.

13. Any system which exceeds the lead or copper action level is required to monitor for water quality parameters during consecutive 6 month periods (January – June and July – December). 40 C.F.R. § 141.87 (b). Respondent failed to monitor for water quality parameters during the January 1, 2010 – June 30, 2010 monitoring period following a lead action level exceedance on September 30, 2009, and, therefore, violated this requirement.

14. Respondent is required to conduct initial monitoring of the system's water during 4 consecutive quarters for volatile organic contaminants. 40 C.F.R. § 141.24(f)(4). Respondent failed to monitor the system's water for volatile organic contaminants during the 3<sup>rd</sup> and 4<sup>th</sup> quarters of 2005 and the 3<sup>rd</sup> quarter of 2006 and, therefore, violated this requirement. On January 1, 2007, following completion of initial monitoring, the State placed the system on annual monitoring for volatile organic contaminants.

15. Respondent is required to notify the public of certain violations of the drinking water regulations, in the manner specified by the regulations. 40 C.F.R. § 141.201 *et seq.* Respondent failed to notify the public of the violations listed in paragraph 14 above and, therefore, violated this requirement. Public notice for the failure to monitor volatile organic contaminants during the 3<sup>rd</sup> and 4<sup>th</sup> quarters of 2005, in paragraph 14 above, has been completed.

16. Respondent is required to report any failure to comply with any of the drinking water regulations to the State within 48 hours (except where a different reporting period is specified in the drinking water regulations), 40 C.F.R. § 141.31(b). Respondent failed to report the violations listed in paragraphs 8 through 14, above, to the State and, therefore, violated this requirement.

### **ORDER**

Based on the above violations, Respondent is ordered to perform the following actions upon Respondent's receipt of this Order (unless a different deadline is specified below):

17. Within 30 days of receipt of this Order, and per the regulations thereafter, Respondent shall provide notification of the lead tap exceedance to the occupants of the residences where the samples were taken as required by 40 C.F.R. §141.85 (d). Respondent shall submit documentation of its distribution of the notification materials to EPA and the State, according to 40 C.F.R. § 141.90(f).

18. Within 30 days of receipt of this Order, and per the regulations thereafter, Respondent shall conduct public education for lead as specified in 40 C.F.R. § 141.85 and shall repeat the public education every 12 months until 2 consecutive 6-month sampling results are below the lead action level. Additionally, in the next water bill to be issued by the Town of Fairview, and quarterly thereafter until 2 consecutive 6-month sampling results are below the lead action level, Respondent shall insert information on the lead exceedance in each customer's water bill including the specific information specified in 40 C.F.R. § 141.85. Respondent shall submit documentation of its distribution of public education materials to EPA and the State, according to 40 C.F.R. § 141.90(f).

19. Within 30 days of receipt of this Order, and per the regulations thereafter, Respondent shall collect one source water sample from each entry point to the distribution system. 40 C.F.R. § 141.88 (b). Respondent shall submit results to EPA and the State within the first 10 days following the end of the monitoring period. 40 C.F.R. § 141.90(a).

20. Within 3 months of receipt of this Order, Respondent shall submit an optimal corrosion control treatment recommendation and source water treatment recommendation to EPA and the State, including a schedule with milestone dates. 40 C.F.R. §§ 141.81(e)(1), 141.82 and 141.83.

Respondent shall complete installation of optimal corrosion control treatment or source water treatment (if applicable) within 18 months after the State and EPA approve the recommendation.

21. Within 30 days of receipt of this Order, Respondent shall monitor the system's water for lead and copper. Respondent shall monitor for lead and copper again between January – June 2011 and thereafter as directed by the State in accordance with 40 C.F.R. § 141.86(b), (c) and (d). Respondent shall report analytical results to EPA and the State within the first 10 days following the end of the monitoring period, as required by 40 C.F.R. § 141.90.

22. Within 30 days of receipt of this Order, and during each subsequent 6 month period when the lead or copper action levels are exceeded, Respondent shall monitor for water quality parameters as directed by the State in accordance with 40 C.F.R. § 141.87. Respondent shall report analytical results to EPA and the State within the first 10 days following the end of the monitoring period, as required by 40 C.F.R. § 141.90.

23. Respondent shall monitor for volatile organic contaminants no later than December 31, 2010, and thereafter in compliance with 40 C.F.R. § 141.24. Respondent shall report analytical results to EPA and the State within the first 10 days following the month in which sample results were received, as required by 40 C.F.R. § 141.31(a).

24. Within 30 days of receiving this Order, Respondent shall notify the public of the violations cited in paragraphs 10, 12, 13, and the 2006 violation in paragraph 14, as required by 40 C.F.R. part 141, subpart Q. Thereafter, following any future violation of the drinking water regulations, Respondent shall comply with the applicable public notice provisions of 40 C.F.R. part 141, subpart Q. Within 10 days of providing public notice, Respondent shall submit a copy of the notice to EPA and the State.

25. Except where a different reporting deadline is specified in the drinking water regulations or this Order, Respondent shall notify EPA and the State within 48 hours of any failure to comply with the drinking water regulations, as required by 40 C.F.R. § 141.31(b).

26. Respondent shall direct all reporting required by this Order to:

Kimberly Pardue Welch  
U. S. EPA Region 8 (8ENF-W) **AND**  
1595 Wynkoop Street  
Denver, CO 80202-1129

Shelley Nolan  
Montana Department of  
Environmental Quality- PWSS  
P.O. Box 200901  
Helena, MT 59620-0901

**GENERAL PROVISIONS**

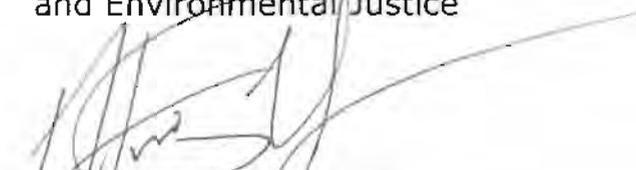
27. This Order does not constitute a waiver, suspension, or modification of any requirement of the Act or drinking water regulations. Issuance of this Order is not an election by EPA to forgo any civil or criminal action.

28. Violation of any part of this Order may subject Respondent to a civil penalty of up to \$37,500 per day of violation (as adjusted for inflation). Violation of the Act or the drinking water regulations may subject Respondent to a civil penalty of up to \$37,500 per day per violation (as adjusted for inflation). 42 U.S.C. §§ 300g-3, 300j-6, 300j-8; 40 C.F.R. part 19.

Issued: \_\_\_\_\_, 2010.



David Rochlin, Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice



Arturo Palomares, Director  
Water Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

# TIER 3 TEMPLATES

The pages that follow contain templates for Tier 3 violations and situations. Along with the templates are instructions, including the required method of delivery and instructions for completing individual sections of the notices. These instructions are designed to supplement Chapter 7, so you may see much of the information repeated here

**Mandatory language on unknown risk for monitoring violations, which must be included exactly as written, is presented in *italics* (141.205(d)).**

You must also include the following italicized language in all notices, where applicable (141.205(d)). Use of this language does *not* relieve you of your obligation to take steps reasonably calculated to notify all persons served:

*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.*

## Templates

Monitoring Violations Annual Notice Template 3-1

## Instructions for Monitoring Violations Annual Notice--Template 3-1

### Template on Reverse

Since most monitoring violations are included in Tier 3, you must provide public notice to persons served within one year after you learn of the violation (141.204(b)). Multiple monitoring violations can be serious, and your primacy agency may have more stringent requirements. Check with your primacy agency to make sure you meet its requirements.

Community systems must use one of the following (141.204(c)):

- X Hand or direct delivery
- X Mail, as a separate notice or included with the bill

Non-community systems must use one of the following (141.204(c)):

- X Posting in conspicuous locations
- X Hand delivery
- X Mail

In addition, both community and non-community systems must use *another* method reasonably calculated to reach others if they would not be reached by the first method (141.204(c)). Such methods could include newspapers, e-mail, or delivery to community organizations. If you post the notice, it must remain posted until the violation is resolved. If the violation has been resolved, you must post the notice for at least one week (141.204(b)). If you mail, post, or hand deliver, print your notice on letterhead, if available.

The notice on the reverse is appropriate for insertion in an annual notice or the CCR, as long as public notification timing and delivery requirements are met (141.204(d)). You may need to modify the template for a notice for individual monitoring violations. This example presents violations in a table; however, you may write out an explanation for each violation if you wish. For any monitoring violation for volatile organic compounds (VOCs) or other groups, you may list the group name in the table, but you must provide the name of every chemical in the group on the notice, e.g., in a footnote.

You may need to modify the notice if you had any monitoring violations for which monitoring later showed a maximum contaminant level or other violation. In such cases, you should refer to the public notice you issued at that time.

Include in your notice the standard language for monitoring and testing procedure violations in *italics* (141.205(d)(2)). If you modify the notice, you may not alter this mandatory language.

### Corrective Actions

In your notice, describe corrective actions you took or are taking. Listed below are some steps commonly taken by water systems with monitoring violations. Choose the appropriate language, or develop your own.

- X We have since taken the required samples, as described in the last column of the table above. The samples showed we are meeting drinking water standards.
- X We have since taken the required samples, as described in the last column of the table above. The sample for [contaminant] exceeded the limit. [Describe corrective action; use information from public notice prepared for violating the limit.]
- X We plan to take the required samples soon, as described in the last column of the table above.

**After Issuing the Notice**

**Make sure to send your primacy agency a copy of each type of notice and a certification that you have met all the public notice requirements within ten days after issuing the notice (141.31(d)).**

Please send a copy of your notice and dates posted to:

Kimberly Pardue Welch  
US EPA Region 8  
8ENF-W  
1595 Wynkoop Street  
Denver, CO 80202-1129

Or, you may fax a copy to: Attn: Kimberly Pardue Welch at 303-312-7518.

**Certification of Public Notification**

I \_\_\_\_\_ certify that the attached public notification was issued from  
(PWS Operator / Responsible Party)

\_\_\_\_\_ to \_\_\_\_\_  
(Date) (Date)

The attached notice was issued by \_\_\_\_\_  
(Method of delivery)

Signature \_\_\_\_\_ Date \_\_\_\_\_

## IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

### Monitoring Requirements not met for Town of Fairview

Our water system violated several drinking water standards over the past five years. Even though these were not emergencies, as our customers, you have a right to know what happened and what we did to correct these situations.

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. Over the past five years, we failed to monitor for a number of contaminants (see table below) and therefore cannot be sure of the quality of our drinking water during that time.

#### What should I do?

**There is nothing you need to do at this time.**

The table below lists the contaminant(s) we did not properly test for during the previous years, how often we are supposed to sample for these contaminants and how many samples we are supposed to take, how many samples we took, when samples should have been taken, and the date on which follow-up samples were (or will be) taken.

Contaminant	Required sampling frequency	When all samples should have been taken	When samples were or will be taken
Failure to monitor volatile organic contaminants	Quarterly	3 <sup>rd</sup> quarter 2006	4 <sup>th</sup> quarter 2006
Failure to monitor for lead and copper	January – June 2010 and again between July – December 2010	January – June 2010	
Failure to monitor for water quality parameters	January – June 2010 and again between July – December 2010	January – June 2010	
Failure to collect source water samples following the September 30, 2009 lead and copper action level exceedance.	Within 6 months after a lead or copper exceedance	March 30, 2010	

**What happened? What is being done?**

For more information, please contact [owner / operator name]\_\_\_\_\_, Owner / Operator,  
at [phone] \_\_\_-\_\_\_-\_\_\_ or [address]\_\_\_\_\_

*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 Town of Fairview

State Water System ID#: MT0000213

Date distributed or dates posted: \_\_\_\_\_