



At a Glance

Why We Did This Review

The U.S. Environmental Protection Agency (EPA) Office of Inspector General (OIG) is reviewing the circumstances of, and the EPA's response to, the contamination in the city of Flint, Michigan's, community water system, including the EPA's exercise of its oversight authority. We are issuing this report to alert the EPA about factors that delayed its intervention using emergency authority under Section 1431 of the Safe Drinking Water Act (SDWA). When our review is completed, we plan to issue a subsequent report.

After Flint switched its drinking water supply in April 2014, inadequate treatment exposed many of the residents to lead. Emergency authority was available to EPA to take actions to protect the public from contamination.

This report addresses the following EPA goals or cross-agency strategies:

- *Protecting America's waters.*
- *Protecting human health and the environment by enforcing laws and assuring compliance.*
- *Working to make a visible difference in communities.*

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Management Alert: Drinking Water Contamination in Flint, Michigan, Demonstrates a Need to Clarify EPA Authority to Issue Emergency Orders to Protect the Public

What We Found

EPA Region 5 had the authority and sufficient information to issue a SDWA Section 1431 emergency order to protect Flint residents from lead-contaminated water as early as June 2015. Region 5 had information that systems designed to protect Flint drinking water from lead contamination were not in place, residents had reported multiple abnormalities in the water, and test results from some homes showed lead levels above the federal action level.

To avoid future public health harm through drinking water contamination, the EPA needs to clarify for its employees how its emergency authority can and should be used to intervene in a public health threat.

EPA Region 5 did not issue an emergency order because the region concluded the state's actions were a jurisdictional bar preventing the EPA from issuing a SDWA Section 1431 emergency order. However, the EPA's 1991 guidance on SDWA Section 1431 orders states that if state actions are deemed insufficient, the EPA can and should proceed with a SDWA Section 1431 order, and the EPA may use its emergency authority if state action is not protecting the public in a timely manner. However, EPA Region 5 did not intervene under SDWA Section 1431, the conditions in Flint persisted, and the state continued to delay taking action to require corrosion control or provide alternative drinking water supplies.

In September 2015, EPA Region 5 first briefed the EPA headquarters' Office of Enforcement and Compliance Assurance (OECA) about Flint's water crisis. OECA recommended the region take SDWA Section 1431 action. During the fall, the state began to take actions to correct the problems in Flint. EPA Region 5 maintained that the state was acting, but the contamination continued. The EPA Administrator subsequently directed OECA to issue an emergency order on January 21, 2016. The emergency order stated the EPA had determined that Flint's and Michigan's responses to the drinking water crisis were inadequate, and the EPA ordered specific actions to address a public health threat.

These situations should generate a greater sense of urgency. We are issuing a management alert report on this matter to promote awareness and facilitate immediate EPA action. The OIG's evaluation of the Flint drinking water crisis is ongoing, and we expect to issue an additional report when our work concludes.

Recommendations

We recommend that OECA update the EPA's 1991 guidance on SDWA Section 1431 emergency authority. We also recommend that OECA require all relevant EPA drinking water and water enforcement program management and staff to attend training on SDWA Section 1431 authority.