

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
901 North 5th Street
Kansas City, Kansas 66101**

IN THE MATTER OF:

City of Peabody
Peabody, Kansas

PWS ID: KS2011509

ADMINISTRATIVE ORDER
Docket No.
SDWA-07-2008-0004

STATUTORY AUTHORITY

The following findings are made and Order issued under the authority vested in the Administrator of the United States Environmental Protection Agency ("USEPA") by Section 1414(g) of the Safe Drinking Water Act ("SDWA"), 42 U.S.C. Section 300g-3(g) ("the Act") and duly delegated to the Director of the Water, Wetlands and Pesticides Division of Region 7.

1. The City of Peabody (hereinafter "Respondent") owns and operates the City of Peabody "public water system," located in Peabody, Kansas, within the meaning of Section 1401 of the SDWA, 42 U.S.C. § 300f(4) and (5), and 40 C.F.R. § 141.2.
2. Respondent is a "supplier of water" within the meaning of Section 1401(5) of the SDWA, 42 U.S.C. § 300(f)(5), and 40 C.F.R. § 141.2.
3. Respondent is a "person" within the meaning of Section 1401 of the SDWA, 42 U.S.C. § 300f(12) and is subject to an Administrative Order issued under Section 1414(g)(1) of the SDWA, 42 U.S.C. § 300(g)-3(1).
4. The City of Peabody public water system provides piped water for human consumption and regularly serves at least 25 individuals, and is therefore a "community water system" as defined by Section 1401(15) of the SDWA, 42 U.S.C. § 300f(15) and 40 C.F.R. § 141.2.
5. On January 4, 2006, USEPA promulgated the Stage 2 Disinfectants and Disinfection Byproducts Rule ("Stage 2 DBPR"), 40 C.F.R. Part 141, Subparts U and V, to provide for increased public health protection against the potential risks for cancer and reproductive and developmental health effects associated with disinfection byproducts ("DBPs"). The Stage 2 DBPR requires community water systems that use a primary or residual disinfectant other than ultraviolet light or deliver water that has been treated with a primary or residual disinfectant other than ultraviolet light to conduct an Initial Distribution System Evaluation ("IDSE") to identify the locations with high disinfection

byproduct concentrations. The locations identified in the IDSE are then to be used as the sampling sites for Stage 2 DBPR compliance monitoring. The Stage 2 DBPR introduces a new method for calculating compliance with the maximum contaminant levels for total trihalomethanes and haloacetic acids, referred to as the locational running annual average (LRAA).

6. The Kansas Department of Health and Environment (KDHE) administers the Public Water Supply Supervision Program in Kansas pursuant to Section 1413 of the SDWA. However, the KDHE has not yet obtained primary enforcement responsibility for the Stage 2 DBPR. Therefore, as of the date of this Order, USEPA has primary responsibility for enforcement of the Stage 2 DBPR.
7. Pursuant to 40 C.F.R. § 141.600(b), community water systems that use a primary or residual disinfectant other than ultraviolet light or deliver water that has been treated with a primary or residual disinfectant other than ultraviolet light are required to comply with 40 C.F.R. Part 141, Subpart U and V (Stage 2 DBPR).
8. Pursuant to 40 C.F.R. § 141.600(c), community water systems serving less than 10,000 people were required to submit a standard monitoring plan in accordance with 40 C.F.R. § 141.601, a system specific study plan in accordance with 40 C.F.R. § 141.602, or 40/30 certification request in accordance with 40 C.F.R. § 141.603 by April 1, 2008. Wholesale and consecutive systems that are part of a combined distribution system, as defined by 40 C.F.R. § 141.2, are required to comply at the same time as the largest system within their combined distribution system.
9. The City of Peabody public water system adds a disinfectant other than ultraviolet light or delivers water that has been treated with a disinfectant other than ultraviolet light. Therefore, it is subject to the requirements of 40 C.F.R. Part 141, Subpart U and V (Stage 2 DBPR).
10. The City of Peabody public water system is a community water system that serves less than 10,000 people or consecutive community water system that is part of a combined distribution system that serves less than 10,000 people. Therefore, it was required to submit a standard monitoring plan in accordance with 40 C.F.R. § 141.601, a system specific study plan in accordance with 40 C.F.R. § 141.602, or 40/30 certification request in accordance with 40 C.F.R. § 141.603 by April 1, 2008.
11. Based on information available to EPA, Respondent failed to submit a standard monitoring plan in accordance with 40 C.F.R. § 141.601, a system specific study plan in accordance with 40 C.F.R. § 141.602, or 40/30 certification request in accordance with 40 C.F.R. § 141.603 by April 1, 2008, as required by 40 C.F.R. § 141.600(c).

12. USEPA is issuing this Administrative Order to place the Respondent on an enforceable schedule to comply with the requirements of the SDWA and 40 C.F.R. Part 141, Subpart U and require compliance with Subpart V.

ORDER

13. Within thirty (30) days of the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.600(c) by submitting a standard monitoring plan in accordance with 40 C.F.R. § 141.601, or system specific study plan in accordance with 40 C.F.R. § 141.602.
14. Within thirty (30) days of the effective date of this Order, Respondent shall mail the standard monitoring plan or system specific study plan to:

Stacie Tucker
Water Enforcement Branch
US EPA Region 7
901 North 5th Street
Kansas City, Kansas 66101
(913) 551-7715

15. Respondent shall comply with all provisions of 40 C.F.R. Part 141, Subparts U and V.

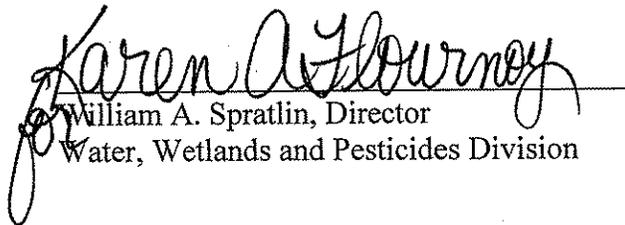
GENERAL PROVISIONS

16. Notwithstanding Respondent's compliance with any requirement of this Order, Respondent's failure to comply with all of the requirements of the Act and Part 141 may subject Respondent to additional enforcement action, including but not limited to judicial, administrative and equitable actions.
17. This Administrative Order shall not prohibit, prevent, or otherwise preclude USEPA from taking whatever action it deems appropriate to enforce the Act in any manner, and shall not prohibit, prevent, or otherwise preclude USEPA from using this Order in subsequent administrative or judicial proceedings. Nothing in this Order shall constitute a waiver, suspension or modification of the requirements of the Act, or the rules and regulations promulgated thereunder which remain in full force and effect. Issuance of this Order is not an election by USEPA to forgo any civil or criminal action otherwise authorized under the Law.
18. For violations of this Order, the Respondent may be subject to an administrative civil penalty of up to \$27,500.00 under Section 1414(g)(3)(B) of the Act, 42 U.S.C. Section 300g-3(g)(3)(B) or a civil penalty of up to \$32,500.00 per day of violation, assessed by

an appropriate United States District Court, under Sections 1414 (g)(3)(A) and 1414(g)(3)(C) of the Act, 42 U.S.C. Sections 300g-3(g)(3)(A) and 300g-3(g)(3)(C).

19. This Order does not relieve Respondent of any responsibilities or liabilities established pursuant to any applicable federal, Commonwealth or local law.
20. This Administrative Order shall take effect upon the signature of the Director, Water, Wetlands and Pesticides Division.

ORDERED, this 14th day of July of 2008.


for William A. Spratlin, Director
Water, Wetlands and Pesticides Division