



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 18 2005

ASSISTANT ADMINISTRATOR
FOR ENFORCEMENT AND
COMPLIANCE ASSURANCE

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Henry P. Krakowski
Vice President of Corporate Safety, Security, and Quality Assurance
United Airlines, Inc.
1200 East Algonquin Road
Elk Grove Township, IL 60007

Dear Mr. Krakowski:

Please find enclosed the final and executed Administrative Order on Consent and Request For Information (Order) that resolves United Airlines, Inc.'s non-compliance with the Safe Drinking Water Act (Act) and the National Primary Drinking Water Regulations. We appreciate the high level of cooperation demonstrated by your airline throughout the process of developing and finalizing the terms of the Order.

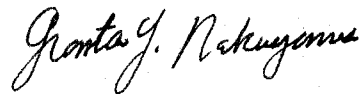
As you know, in previous correspondence and throughout the negotiation process, EPA assured the airlines that it would address instances of noncompliance with the Act through the negotiated Order. In consideration of your willingness to address your non-compliance issues, EPA, in its enforcement discretion, agrees not to pursue additional enforcement action against United Airlines for past violations of the Act addressed by this Order or for penalties for such violations as long as United Airlines is in compliance with all the terms of the Order. This exercise of EPA's enforcement discretion applies only to the period of time the Order is in effect.

Again, I want to commend you for your cooperation in this process and for recognition of the importance of protecting public health and meeting the requirements of the National Primary Drinking Water Regulations pursuant to the Safe Drinking Water Act.

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Please contact Laurie Dubriel at (202) 564-4031 or Lourdes Bufill at (202) 564-5128 of my staff if you have any additional questions.

Sincerely,

A handwritten signature in cursive script that reads "Granta Y. Nakayama".

Granta Y. Nakayama
Assistant Administrator

Enclosure

cc: John Watson, Gardner, Carton & Douglas

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of	§	Docket No. SDWA-05-2005-4809
	§	
UNITED AIRLINES, INC.	§	Proceedings Under Section 1414(g) and
	§	1445(a) of
	§	
RESPONDENT	§	The Safe Drinking Water Act, 42 USC
	§	Section 300g-3(g) and 300j-4(a)
	§	
UNITED AIRLINES, INC.	§	
NAME COUNTY	§	ADMINISTRATIVE ORDER ON
	§	CONSENT AND REQUEST FOR
CITY, STATE	§	INFORMATION

WHEREAS aircraft that qualify as public water systems are subject to the Safe Drinking Water Act and the National Primary Drinking Water Regulations; and WHEREAS in 1979 the United States Environmental Protection Agency (EPA) issued Water Supply Guidance 17 which was replaced by Water Supply Guidance 29 in 1986, both of which allowed certain owners or operators of carriers that conveyed passengers in interstate commerce to implement operation and maintenance programs in lieu of the monitoring required under the National Primary Drinking Water Regulations of the Safe Drinking Water Act if the program was approved by EPA; and WHEREAS carriers that conveyed passengers in interstate commerce, including airlines, relied upon Water Supply Guidances 17 and 29 to comply with the National Primary Drinking Water Regulations; and WHEREAS in September 2003 EPA suspended new approvals of operation and maintenance plans under Water Supply Guidance 29; and WHEREAS EPA is in the process of reviewing the National Primary Drinking Water Regulations to determine the extent to which any amendments are necessary to address the circumstances unique to aircraft drinking water systems; and WHEREAS United Airlines, Inc. (United) recognizes the

importance of protecting public health; and WHEREAS on November 1, 2004, United entered into the “*Agreement in Principle Between EPA and the Member Airlines of the Air Transport Association for Interim-Administrative Orders on Consent Governing the Regulation of Drinking Water Onboard Commercial Passenger Aircraft*”; United and EPA have agreed to enter into the following REQUEST FOR INFORMATION and ADMINISTRATIVE ORDER ON CONSENT which is intended to address United’s alleged noncompliance with the Safe Drinking Water Act and National Primary Drinking Water Regulations via a phased monitoring program.

I. STATUTORY AUTHORITY

Enforcement authority over public water systems on carriers that convey passengers in interstate commerce is solely vested with the United States Environmental Protection Agency (EPA) under 40 CFR Section 142.3(b)(1). Under the authority vested in the Administrator of the EPA by Sections 1445(a) and 1414(g) of the Safe Drinking Water Act (the Act or SDWA), 42 USC Sections 300j-4(a) and 300g-3(g), the following FINDINGS are made and the following REQUESTS FOR INFORMATION and ADMINISTRATIVE ORDER ON CONSENT (ORDER) are issued. The Administrator of the U.S. EPA has delegated the authority to take these actions to the Assistant Administrator for the Office of Enforcement and Compliance Assurance who in turn has re-delegated this authority to the Division Director of the Water Enforcement Division.

II. INTRODUCTION

1. This ORDER is issued upon consent of United Airlines, Inc. (Respondent). The EPA alleges that Respondent has failed to fully comply with the Act, and the regulations promulgated pursuant thereto, in particular the monitoring, analytical, public notice, and reporting requirements at 40 CFR 141 subparts C, D, H, Q, and T.

2. Respondent agrees not to contest the EPA's jurisdiction or authority to enter into or enforce this ORDER. Respondent also agrees not to contest the validity of any terms and conditions of this ORDER in any action to enforce, or in any action arising from this ORDER and specifically waives any such defenses.
3. The EPA's decision or actions in entering into and pursuant to this ORDER are not subject to judicial review prior to the United States's initiation of judicial action to compel Respondent's compliance with this ORDER or to assess civil penalties for non-compliance with this ORDER.
4. The scope of this ORDER is limited to Respondent's actions with respect to the aircraft in its operating fleet that are subject to this ORDER.

III. DEFINITIONS

5. A "watering point" means a facility where water is transferred from a water supply to the aircraft. These facilities may include water trucks, carts, cabinets, and hoses.
6. A "sample" means a volume of water collected from a cold water tap and/or spigot from the aircraft lavatory or galley. If the only sampling point in the galley is the coffee maker and/or hot water tap, a "sample" includes a volume of water from this location. Although the quality or result of the sample may be altered by collecting it from a coffee maker or hot water tap, EPA may consider these sample results in conjunction with the evaluation of the data collected in Monitoring Period I.
7. A "repeat sample" in accordance with 40 CFR 141.21(b) means the collection of samples from onboard the aircraft after an initial total coliform positive sample result and prior to disinfection.
8. A "foreign water source" means a water supply located outside of the United States or its

during the effective life of this ORDER.

14. A “comprehensive representative monitoring plan” means a plan which includes monitoring every aircraft in the operating fleet. The design of the monitoring plan shall be intended, to the maximum extent possible, to reflect the various seasonal and/or climate conditions (including range in temperature) where water is boarded, various stages of the disinfection cycle, sources of water, and flight routes for each make and model of aircraft.
15. A “current monitoring program” means any regular monitoring of the water system onboard the aircraft or the watering points for total coliform, fecal coliform, *E. coli*, nitrate, nitrite, disinfectant residual, turbidity, or heterotrophic plate count that was implemented by Respondent prior to the effective date of this ORDER.
16. “Physically turning off the water” means any physical act to ensure water is unavailable from the drinking water tanks onboard the aircraft for human consumption.
17. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in the SDWA or its implementing regulations, in which case the statute or regulatory definitions shall apply.

IV. FINDINGS

18. A “person” is an individual, corporation, company, association, partnership, State, municipality, or Federal agency (and includes officers, employees, and agents of any corporation, company, association, State, municipality, or Federal agency) as defined in Section 1401(12) of the Act, 42 USC Section 300f-12.
19. Respondent is a corporation and is therefore a “person” as defined in Section 1401(12) of the SDWA, 42 U.S.C. Section 300f-12 and 40 CFR 141.2.

20. Respondent is a passenger airline company in the United States which as of the date of Respondent's signature conveys passengers in interstate commerce with a fleet of 457 aircraft. Respondent transports more than 70 million passengers a year to approximately 122 airports in 120 cities in 39 U.S. states and multiple foreign locations, including Puerto Rico and the U.S. Virgin Islands at an average rate of approximately 1,500 flights per day.
21. Respondent provides water on its aircraft to passengers and crew for human consumption.
22. A "public water system" means a system for the provision to the public of water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least 60 days out of the year as defined in Section 1401(4) of the Act, 42 USC Section 300f-4 and 40 CFR 141.2.
23. Each of Respondent's aircraft subject to this ORDER provides water for human consumption to the public and regularly serves an average of twenty-five individuals daily at least 60 days out of the year, and thus each is a "public water system" as defined in Section 1401(4) of the SDWA, 42 U.S.C. Section 300f-4, and 40 CFR 141.2.
24. A "supplier of water" means any person who owns or operates a public water system as defined in Section 1401(5) of the Act, 42 USC Section 300f-5.
25. Respondent owns and/or operates aircraft public water systems, and therefore Respondent is a "supplier of water" as defined in Section 1401(5) of the SDWA, 42 U.S.C. Section 300f-5, and 40 CFR 141.2.
26. A "non-community water system" means a public water system that is not a community

required by 40 CFR 141.74(b)(6)(i) and/or (c)(3)(i) to measure the residual disinfectant concentration at the same points in the distribution system and at the same time as total coliforms are sampled as specified in §141.21, except as otherwise provided by Part 141.

40. Respondent did not measure and report residual disinfectant concentrations for each aircraft in its operating fleet as required by 40 CFR 141.74(a)(2) and 141.74(b)(6)(i) and/or (c)(3)(i) and 141.31 for the five year period preceding the date of this ORDER.
41. Public water systems are required by 40 CFR 141 subpart Q to provide public notification for failure to perform any water quality monitoring required by the NPDWRs.
42. Respondent did not provide public notification or provide EPA with certification and copies of the public notices as required under 40 CFR 141 subpart Q and 141.31 for the five year period preceding the date of this ORDER.

V. ORDER

Based upon the foregoing FINDINGS, EPA issues this ORDER. Respondent, without admitting to or denying these findings, consents to the issuance of this ORDER and is hereby ORDERED to comply with the following provisions for each of its aircraft:

43. Within forty-five (45) calendar days of receipt of the electronic formatting instructions from EPA and Appendix A, which are hereby incorporated by reference as an enforceable part of this ORDER, Respondent shall provide EPA with an inventory of the operating fleet, identifying each individual aircraft by tail or nose number, serial number, make and model in accordance with the formatting instructions and Appendix A. In addition, for each individual aircraft in the operating fleet, Respondent shall provide the following information to EPA in the abovementioned format:

