



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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

2010 MAY -4 AM 11:29

FILED  
EPA REGION VIII  
HEARING CLERK

Ref: 8ENF-W

MAY 04 2010

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Laramie County Commissioners  
c/o Jeff Ketcham, Chair  
310 W 19<sup>th</sup> Street Rm 400  
County Courthouse  
Cheyenne, WY 82001-4449

Re: Notice of Safe Drinking Water Act  
Enforcement Action against the  
Flying J Inc. Public Water System  
PWS ID #WY5601008

Dear County Commissioners:

The Safe Drinking Water Act requires that the Environmental Protection Agency (EPA) notify locally elected officials of certain enforcement actions taken in their area.

EPA has issued an Administrative Order to Flying J Inc., directing it to comply with the National Primary Drinking Water Regulations. The violations alleged in the Order include: failing to monitor total coliform bacteria; failing to monitor chlorine residual; failing to post public notice; and failing to report these violations to EPA.

For more details, a copy of the Order is enclosed. **The Order does not require any response or action by the County Commission.** If you have any questions regarding the Order, please contact Kimberly Pardue Welch at (303) 312-6983.

Sincerely,

A handwritten signature in black ink, appearing to read "Darcy O'Connor", written over a horizontal line.

Darcy O'Connor, Acting Director  
Water Technical Enforcement Program  
Office of Enforcement, Compliance and  
Environmental Justice

Enclosure  
Administrative Order





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CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Corporation Service Company, Registered Agent  
Flying J Inc.  
1821 Logan Ave  
Cheyenne, WY 82001

Re: Administrative Order  
Flying J Inc. Public Water System  
Docket No. **SDWA-08-2010-0042**  
PWS ID #WY5601008

To Whom it May Concern:

Enclosed is an Administrative Order (Order) issued by the Environmental Protection Agency (EPA) under the authority of the Safe Drinking Water Act, 42 U.S.C. §§ 300f *et seq.* Among other things, the Order alleges that Flying J Inc. (the company) has violated the National Primary Drinking Water Regulations (the 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 company complies with the Order, 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 company to notify the public of having violated the drinking water regulations. EPA has provided copies of forms and instructions for providing public notice as an attachment to this document. In the 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. Any questions from the company's attorney should be

directed to Marc Weiner, Enforcement Attorney, who may be reached at the above address (with the mailcode 8ENF-L) or by phone at (800) 227-8917, extension 6913 or (303) 312-6913.

We urge your prompt attention to this matter.

Sincerely,



Darcy O'Connor, Acting Director  
Water Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosures:  
Order

cc:  
WY DEQ/DOH (via email)  
Tina Artemis, EPA Regional Hearing Clerk  
Rod Rusk, Operator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2010 MAY -4 AM 11:28

IN THE MATTER OF: )  
 )  
Flying J Inc., )  
 )  
Respondent. )

Docket No. FILED  
EPA REGION VIII  
~~SDWA-08-2010-0042~~  
HEARING CLERK  
ADMINISTRATIVE ORDER

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. Flying J Inc. (Respondent) is a Wyoming corporation that owns and/or operates the Flying J Inc. Water System (the system), which provides piped water to the public in Laramie County, Wyoming, for human consumption.

3. The system is supplied by a groundwater source consisting of three wells. The water is disinfected with chlorine gas.

4. The system has approximately 2 service connections and regularly serves an average of at least 109 of the same individuals daily for at least 6 months out of the year. Additionally, the system serves at least 2,000 transient individuals daily. Therefore, the system is a "public water system" as defined in § 1401(4) of the Act, 42 U.S.C. § 300f (4), and 40 C.F.R. § 141.2. The system is also a "non-transient, non-community" water system as defined in 40 C.F.R. § 141.2.

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. EPA has sent Respondent annual notifications of the specific monitoring requirements that apply to the system.

**VIOLATIONS**

7. Respondent was required to monitor the system's water quarterly for total coliform bacteria. 40 C.F.R. § 141.21. Respondent failed to

monitor the system's water for total coliform bacteria during the 3rd quarter of 2005 and, therefore, violated this requirement.

8. On November 7, 2007, Respondent was notified by EPA that the system is required to monitor the system's water twice per month for total coliform bacteria. 40 C.F.R. § 141.21. Respondent failed to monitor the system's water twice per month for total coliform bacteria during October 2009 (no samples collected) and January 2010 (one sample collected) and, therefore, violated this requirement.

9. Respondent is required to monitor the residual disinfectant level in the system's water, at the same time and place in the system's distribution system as total coliforms are to be sampled as specified in 40 C.F.R. § 141.21. 40 C.F.R. § 141.132(c)(1). Respondent failed to monitor the system's water for residual disinfectant during the 4<sup>th</sup> quarter of 2009 and 1<sup>st</sup> quarter of 2010 and, therefore, violated this requirement.

10. Respondent is required to notify the public of certain violations of the drinking water regulations. 40 C.F.R. §§ 141.201 and 141.204. Respondent did not notify the public of the violation cited in paragraph 7 and, therefore, violated this requirement.

11. Respondent is required to report any failure to comply with any coliform monitoring requirement to EPA within ten days of discovering the violation. 40 C.F.R. § 141.21(g)(2). Respondent failed to report the violations listed in paragraphs 7 and 8, above, to EPA and, therefore, violated this requirement.

12. Respondent is required to report any failure to comply with any of the drinking water regulations to EPA 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 9 and 10, above, to EPA 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):

13. Respondent shall monitor the system's water twice each month for total coliform bacteria, as required by 40 C.F.R. § 141.21. Respondent shall

report analytical results to EPA within the first 10 days following the month in which sample results were received, as required by the drinking water regulations. 40 C.F.R. § 141.31(a). Respondent shall report any violation of the total coliform monitoring requirements to EPA within 10 days of discovery, as required by 40 C.F.R. § 141.21(g)(2).

14. Respondent shall monitor the residual disinfectant level in the system's water each time it collects a total coliform sample, as required by 40 C.F.R. § 141.132(c)(1). Respondent shall report sample results and all information required by 40 C.F.R. § 141.132(c)(1) quarterly to EPA no later than 10 days after the end of each quarter, as required by 40 C.F.R. § 141.134(c)(1).

15. Within 30 days of receiving this Order, Respondent shall notify the public of the violations cited in paragraphs 7 and 8 above, 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.

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

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

U. S. EPA Region 8 (8P-W-DW)  
1595 Wynkoop Street  
Denver, CO 80202-1129

### **GENERAL PROVISIONS**

18. 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.

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

Issued: May 4, 2010.

David Rochlin

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

Darcy O'Connor

Darcy O'Connor, Acting Director  
Technical Water 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)):

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

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

- Posting in conspicuous locations
- Hand delivery
- 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.

**IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER**  
**Monitoring Requirements Not Met for Flying J Inc.**

Our water system violated several drinking water standards over the past several 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. We failed to monitor for total coliform during the 3<sup>rd</sup> quarter 2005 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 [this contaminant/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
Total coliform	1 sample every quarter	<b>3<sup>rd</sup> Q 2005</b>  (System is now required to collect 2 samples every month)	2 samples were collected in March 2010
Total coliform	2 samples every month  (as of November 7, 2007)	October 2009 January 2010 (only 1 sample was collected)	2 samples were collected in February and March 2010

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

For more information, please contact [name and number of contact person] \_\_\_\_\_ 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 **Flying J Inc.**  
 State Water System ID#: **WY5601008**  
 Date distributed or dates posted: \_\_\_\_\_

**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 \_\_\_\_\_