



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

JUL 15 2013

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Sheridan County Commissioners
c/o Steve Maier, Chairman
224 S. Main Street, Suite B1
Sheridan, WY 82801

Re: Notice of Safe Drinking Water Act Enforcement
Action against Bear Lodge Public Water
System
PWS ID # WY5600479

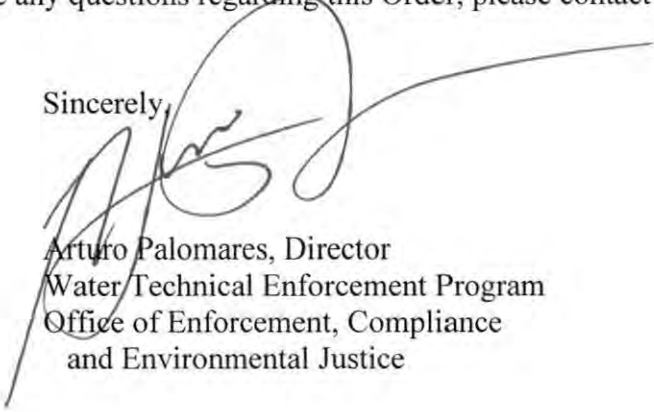
Dear Commissioners:

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

An Administrative Order (Order) is being issued to B-Y Ranch Associates, Inc. as owner and/or operator of the Bear Lodge public water system (System). This Order requires that B-Y Ranch Associates, Inc. take measures to return the System to compliance with the Act and the National Primary Drinking Water Regulations. The violations include: failure to monitor for total coliform bacteria, failure to complete corrective actions, failure to notify the public of violations and failure to report such 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 this Order, please contact Olive Hofstader at (303) 312-6467.

Sincerely,


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

Enclosure:
Order



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JUL 15 2013

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert E. Phillips, Registered Agent
B-Y Ranch Associates, Inc.
P.O. Box 603
c/o Annette M. Rinaldo, CPA
Sheridan, WY 82801

Re: Administrative Order
Bear Lodge Public Water System
Docket No. **SDWA-08-2013-0044**
PWS ID #5600479

Dear Mr. Phillips:

Enclosed is an Administrative Order (Order) issued by the United States Environmental Protection Agency (EPA) under the authority of section 1414(g) of the Safe Drinking Water Act, 42 U.S.C. § 300g-3(g). Among other things, the Order alleges that B-Y Ranch Associates, Inc. (Company), as owner and/or operator of the Bear Lodge public water system (System), has violated the National Primary Drinking Water Regulations at 40 C.F.R. part 141 (Drinking Water Regulations).

The Order is effective upon the date received. Please review the Order and within 10 days provide the EPA with any pertinent information you believe the EPA may not have (e.g., any monitoring that may have been done but not submitted, any improvements to the system, etc.). If the EPA does not hear from you, the EPA will assume this information is correct.

If the Company complies with the Order, the 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.

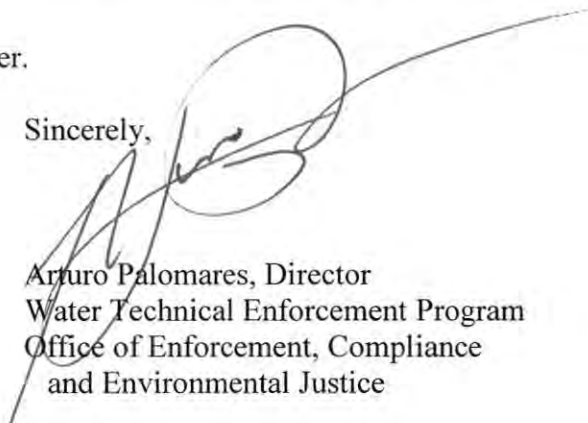
The Small Business Regulatory Enforcement and Fairness Act (SBREFA) may apply to this situation. Enclosed is a small business information sheet, outlining compliance assistance resources available to small businesses and small governments, in case these are relevant. SBREFA does not eliminate the responsibility to comply with the Order or the Drinking Water Regulations.

The Order requires the Company to notify the public of having violated the Drinking Water Regulations. Enclosed please find a public notice template explaining the public notice requirements in more detail.

To submit information, to request paper copies of public notice forms and instructions, or to request an informal conference with the EPA, please contact Olive Hofstader at the above address (with the mailcode 8ENF-W) or by phone at (800) 227-8917, extension 6467, or (303) 312-6467. Any questions from the Company's attorney should be directed to Dana Stotsky, Enforcement Attorney, who may be reached at the above address (with the mailcode 8ENF-L) or by phone at (800) 227-8917, extension 6905, or (303) 312-6905.

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
SBREFA Information Sheet
Public Notice Template

cc:

WY DEQ/DOH (via email)
Tina Artemis, EPA Regional Hearing Clerk
Ricky J. Young, President (via certified mail, return receipt requested)

9. If two or more samples collected in any month from the System's water are positive for total coliform, then the System has not complied with the maximum contaminant level (MCL) for total coliform bacteria. 40 C.F.R. § 141.63(a)(2). During the month of December 2011, two or more samples from the System were positive for total coliform, and, therefore, Respondent violated this requirement.
10. If the System has one or more sampling results that are positive for total coliform, Respondent is required to collect at least five routine samples during the next month the System provides water to the public. 40 C.F.R. § 141.21(b)(5). After the System's water tested positive for total coliform on May 24, 2012, Respondent failed to take at least five routine samples of the System's water in June 2012 and, therefore, violated this requirement.
11. 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. §§ 141.201-141.211. Respondent failed to notify the public of the violations cited in paragraphs 7, 9 and 10, above, and, therefore, violated this requirement. Respondent failed to provide notice to the public and, therefore, violated this requirement. Respondent provided public notice for the failure to correct significant deficiencies cited in paragraph 8, above, and is required to continue to inform the public annually until the significant deficiencies cited in paragraph 8, above, are corrected. 40 C.F.R. §§ 141.403(a)(7)(ii).
12. Respondent is required to report any coliform MCL violation to the EPA no later than the end of the next business day after learning of it. 40 C.F.R. § 141.21(g)(1). Respondent did not notify the EPA of the MCL violation cited in paragraph 9, above, and, therefore, violated this requirement.
13. Respondent is required to report any failure to comply with any coliform monitoring requirement to the EPA within 10 days after discovering the violation. 40 C.F.R. § 141.21(g)(2). Respondent failed to report the violations listed in paragraph 10, above, to the EPA and, therefore, violated this requirement.
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14. Respondent is required to report any failure to comply with any drinking water regulation to EPA within 48 hours (except where the Drinking Water Regulations specify a different time period). 40 C.F.R. § 141.31(b). Respondent failed to report the violations cited in paragraphs 7 and 8, 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):

15. Respondent submitted a plan and schedule to address the significant deficiencies listed below. The EPA approved the schedule on March 26, 2013. The corrective actions include installing a new well head and raising the casing above ground level for both wells #1 and #2. These corrective actions shall be completed by August 31, 2013, in accordance with the approved schedule.

- a) Well #1 improperly constructed.
- b) The sanitary seal and casing on Well #1 are not overlapping, watertight, or adequately

secured. Electrical cables entering the well must be sealed so contaminants cannot enter the well through the open holes.

- c) The sanitary seal and casing on Well #2 are not overlapping, watertight, or adequately secured. Electrical cables entering the well must be sealed so contaminants cannot enter the well through the open holes.

16. Respondent shall notify EPA within 30 days after completion of the corrective actions, as required by 40 C.F.R. § 141.405(a)(2). Respondent shall provide evidence to EPA, including photographs of the properly constructed and sealed wells and the following certification signed by a person of authority in the System, that the above corrective actions have been completed: "I certify under penalty of perjury that B-Y Ranch Associates, Inc., have completed corrective actions to address significant deficiencies at the Bear Lodge."

17. If any routine sample for the System is positive for total coliform, Respondent shall collect at least five routine samples during the next month in which the System provides water to the public, following the procedures in 40 C.F.R. § 141.21(b)(5). Respondent shall report analytical results to the EPA within the first 10 days following the month in which Respondent receive sample results, as required by 40 C.F.R. § 141.31(a). Respondent shall report any violation of coliform monitoring requirements in 40 C.F.R. part 141 to the EPA within 10 days after discovering the violation, as required by 40 C.F.R. § 141.21(g)(2).

18. Within 30 days after receipt of this Order, Respondent shall notify the public of the violations cited in paragraphs 7, 9 and 10 above, as required by 40 C.F.R. part 141, subpart Q, and shall annually notify the public of any uncorrected significant deficiencies, as required by 40 C.F.R. §§ 141.403(a)(7). 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 and 40 C.F.R. §§ 141.403(a)(7). Within 10 days after providing public notice, Respondent shall submit a copy of the notice to EPA.

19. Respondent shall report any violation of the Drinking Water Regulations to EPA within 48 hours of the violation occurring, as required by 40 C.F.R. § 141.31(b). However, if a different time period for reporting is specified in this Order or the Drinking Water Regulations, within that different period.

20. Respondent shall notify the EPA within 10 days after any sale of the System or any reduction in the population served by the System if such reduction brings the number of service connections to fewer than 15 or the number of individuals served to fewer than 25. The notification of any sale shall include the name and contact information for the entity buying the System and Respondent shall provide a copy of this Order to the new owner.

21. This Order shall be binding on Respondent, its successors and assigns, and any person (e.g., employee, contractor, or other agent) acting in concert with Respondent.

22. If Respondent (a) leases the System to another person or entity, or (b) contract with or hires any other person or entity to operate the System, Respondent shall, no later than the date of such lease, or other contract, provide a copy of this Order to the lessee or contractor and, no later than 10 days

thereafter, notify the EPA in writing of the lease or other contract. Respondent shall remain obligated to comply with this Order even if Respondent leases the System to another person or entity or hires another person or entity to operate the System.

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

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

GENERAL PROVISIONS


24. 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.

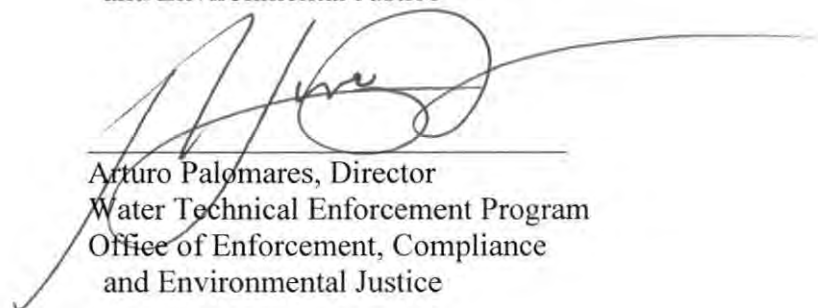
25. Violation of any part of this Order or the Drinking Water Regulations may subject Respondent to a civil penalty of up to \$37,500 (as adjusted for inflation) per day of violation. 42 U.S.C. § 300g-3; 40 C.F.R. part 19.

26. Respondent may seek federal judicial review of this Order pursuant to section 1448(a) of the Safe Drinking Water Act, 42 U.S.C. § 300j-7(a).

27. This Order is effective upon receipt by Respondent and will continue to be in effect until closed by the EPA.

Issued: July 5, 2013.


James H. Eppers, 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

DRINKING WATER NOTICE

Tests Show Presence of Coliform Bacteria in Water

We routinely monitor for the presence of drinking water contaminants. We took nine samples during September 2011. Five of those samples showed the presence of total coliform bacteria. The standard is that no more than one sample per month may do so.

What This Means

This is not an emergency. Total coliform bacteria themselves are generally not harmful. **Coliforms are bacteria which are naturally present in the environment and are used as an indicator that other, potentially-harmful, bacteria may be present. Coliforms were found in more samples than allowed and this was a warning of potential problems.**

Usually, coliforms are a sign that there could be a problem with the system's treatment or distribution systems.

You may drink the water. However, if you have specific health concerns, consult your doctor.

If you have a severely compromised immune system, have an infant, are pregnant, or are elderly, you may be at increased risk and should seek advice from your health care providers about drinking this water.

Steps We Are Taking

Total coliform samples taken in 2012 through 2013 indicated no presence of total coliform.

For more information, please contact Rick Young of Bear Lodge at 307-752-2444 or P.O. Box 159 Dayton, WY 82836

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 provided by Bear Lodge. State Water System ID#: WY5600479.

Date distributed: _____

Instructions for Resolved Total Coliform Notice – Template NC-5

Template on Reverse

This template is intended for systems where consumers will not need to boil their water or where they will not have the facilities to do so. Since exceeding the total coliform bacteria maximum contaminant level requires a Tier 2 notification, you must provide public notice to persons served as soon as practical and within 30 days after you learn of the violation [40 CFR 141.203(b)]. Persistent total coliform problems can pose a serious health risk, and your state may elevate such situations to Tier 1. Check with your state to make sure you meet all its requirements. You must issue a repeat notice every three months for as long as the violation persists.

Noncommunity water systems must use one of the following methods [40 CFR 141.203(c)]:

- Posting in conspicuous locations
- Hand or direct delivery
- Mail

You must also use *another* method reasonably calculated to reach others if they would not be reached by the first method [40 CFR 141.203(c)].

If you modify the notice, you must still include all required PN elements from 40 CFR 141.205(a) and leave the mandatory language unchanged (see below).

Mandatory Language

Mandatory language on health effects (from Appendix B to Subpart Q) must be included as written (with blanks filled in) and is presented in this notice in italics with an asterisk on either end.

This template also includes mandatory language encouraging further distribution to persons who may not have received the notice [40 CFR 141.205(d)] and is presented in this notice in italics and with an asterisk on either end. However, if you post the notice such that all possible users have access to the notice, this language is not applicable and can be omitted.

Description of the Violation

The template on the reverse is intended for use by systems taking fewer than 40 coliform bacteria samples a month. You can modify the template using the following language if you are required to take 40 or more samples per month:

~~We routinely monitor for the presence of drinking water contaminants. During [provide month], [give percentage] percent of our samples showed the presence of total coliform bacteria. The standard is that no more than 5 percent of samples may do so.~~

Corrective Action

In your notice, describe corrective actions you are taking. If you know what is causing the coliform problem, explain this in the notice. Listed below are some steps commonly taken by water systems with total coliform violations. You can use one or more of the following statements, if appropriate, or develop your own text:

- We are chlorinating and flushing the water system.
- We are increasing sampling for coliform bacteria to identify the source of contamination.
- We are repairing the wellhead seal.
- We are repairing, cleaning, and disinfecting the storage tank.
- We will inform you when additional samples show no coliform bacteria.

After Issuing the Notice

Make sure to send EPA a copy of each type of notice and a certification that you have met all the public notification requirements within ten days after issuing the notice [40 CFR 141.31(d)].

DRINKING WATER NOTICE

Monitoring Requirements Not Met for Bear Lodge

We violated a drinking water requirement. Even though this is not an emergency, as our customers, you have the right to know what happened and what we are doing to correct this situation.

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. During June 2012 we did not complete all monitoring for total coliform and therefore cannot be sure of the quality of our drinking water during that time.

What This Means

There is nothing you need to do at this time. The table below lists the contaminant(s) we did not properly test for, how often we are supposed to sample (frequency) 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	Requirement	Action	When actions should have been taken	When actions were (or will be) taken
Coliform	Five samples during month after total coliform positive sample	No samples taken	June 2012	September 17, 2013
Significant deficiencies	Consult with EPA within 30 days of notification of significant deficiencies	Did not consult with EPA within 30 days	September 2011	December 2011

Steps We Are Taking

Total coliform samples since the missed samples have been safe, and we have consulted with EPA on correction of the significant deficiencies.

For more information, please contact Rick Young of Bear Lodge at 307-752-2444 or P.O. Box 159 Dayton, WY 82836.

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 [system]. State Water System ID#: _____.

Date distributed: _____.

Instructions for Monitoring Violation Notice – Template NC-6

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** [40 CFR 141.204(b)]. Multiple monitoring violations can be serious, and your state may have more stringent requirements. Check with your state to make sure you meet its requirements.

Noncommunity water systems must use one of the following methods [40 CFR 141.204(c)]:

- Posting in conspicuous locations
- Hand or direct delivery
- Mail

In addition, you must use *another* method reasonably calculated to reach others if they would not be reached by the first method [40 CFR 141.204(c)].

You must post the notice until the violation is resolved. If the violation has already been resolved, you must post the notice for **at least seven days** [40 CFR 141.204(b)]. If you mail, post, or hand deliver, you should print your notice on your system's letterhead, if available.

The template on the reverse is appropriate for use as an annual notice combining notification for several violations, as well as for notices for individual violations. This template presents violations in a table; however, you may write out an explanation for each violation if you wish.

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. If you do modify the notice, you must still include all required PN elements and leave the mandatory language unchanged (see below).

Mandatory Language

Mandatory language for monitoring and testing procedure violations [40 CFR 141.205(d)] must be included as **written (with blanks filled in) and is presented in this notice in italics and with an asterisk on either end.**

This template also includes mandatory language encouraging further distribution to persons who may not have received the notice [40 CFR 141.205(d)] and is presented in this notice in italics and with an asterisk on either end. However, if you post the notice such that all possible users have access to the notice, this language is not applicable and can be omitted.

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 text:

- 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.
- 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.]
- We plan to take the required samples soon, as described in the last column of the table above.

After Issuing the Notice

Be sure to send your state a copy of each type of notice and a certification that you have met all the public notification requirements **within ten days after issuing the notice** [40 CFR 141.31(d)].

U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources, including workshops, training sessions, hotlines, websites and guides, to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

EPA's Small Business Websites

Small Business Environmental Homepage - www.smallbiz-enviroweb.org

Small Business Gateway - www.epa.gov/smallbusiness

EPA's Small Business Ombudsman - www.epa.gov/sbo or 1-800-368-5888

EPA's Compliance Assistance Homepage

www.epa.gov/compliance/assistance/business.html

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

EPA's Compliance Assistance Centers

www.assistancecenters.net

EPA's Compliance Assistance Centers

provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture/

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org or 1-734-995-4911

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Metal Finishing

www.nmfrc.org

Paints and Coatings

www.paintcenter.org

Printed Wiring Board Manufacturing

www.pwbrc.org

Printing

www.pneac.org

Ports

www.portcompliance.org

U.S. Border Compliance and Import/Export Issues

www.bordercenter.org

Hotlines, Helplines and Clearinghouses

www.epa.gov/epahome/hotline.htm

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Some examples are:

Antimicrobial Information Hotline

info-antimicrobial@epa.gov or 1-703-308-6411

Clean Air Technology Center (CATC) Info-line

www.epa.gov/ttn/catc or 1-919-541-0800

Emergency Planning and Community Right-To-Know Act

www.epa.gov/superfund/resources/infocenter/epcra.htm or 1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otaq/imports or 734-214-4100

National Pesticide Information Center

www.npic.orst.edu/ or 1-800-858-7378

National Response Center Hotline -

to report oil and hazardous substance spills
www.nrc.uscg.mil or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC)

www.epa.gov/opptintr/ppic or 1-202-566-0799

Safe Drinking Water Hotline

www.epa.gov/safewater/hotline/index.html or 1-800-426-4791

Stratospheric Ozone Protection Hotline

www.epa.gov/ozone or 1-800-296-1996

Toxic Substances Control Act (TSCA) Hotline

tsc-hotline@epa.gov or 1-202-554-1404

Wetlands Information Helpline

www.epa.gov/owow/wetlands/wetline.html or 1-800-832-7828

State and Tribal Web-Based Resources

State Resource Locators

www.envcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)

www.smallbiz-enviroweb.org

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits. The website is a central point for sharing resources between EPA and states.

EPA's Tribal Compliance Assistance Center

www.epa.gov/tribalcompliance/index.html

The Center provides material to Tribes on environmental stewardship and regulations that might apply to tribal government operations.

EPA's Tribal Portal

www.epa.gov/tribalportal/

The Portal helps users locate tribal-related information within EPA and other federal agencies.

EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

EPA's Small Business Compliance Policy

www.epa.gov/compliance/incentives/smallbusiness/index.html

This Policy offers small businesses special incentives to come into compliance voluntarily.

EPA's Audit Policy

www.epa.gov/compliance/incentives/auditing/auditpolicy.html

The Policy provides incentives to all businesses that voluntarily discover, promptly disclose and expeditiously correct their noncompliance.

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247), or go to their website at www.sba.gov/ombudsman.

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.