



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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

**JUL 12 2017**

2017 JUL 12 PH 3: 38

FILED  
EPA REGION VIII  
HEARING CLERK

Ref: 8ENF-W-SDW

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Darin Westby, Director  
Wyoming Department of State Parks  
and Cultural Resources  
2301 Central Avenue  
Cheyenne, Wyoming 82002

Re: Administrative Order regarding South Pass City Historic Site, PWS ID #5601137  
Docket No. **SDWA-08-2017-0023**

Dear Mr. Westby:

Enclosed is an Administrative Order (Order) issued by the U.S. Environmental Protection Agency 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 the Wyoming Department of State Parks and Cultural Resources (SPCR), as owner and/or operator of the South Pass City Historic Site Public Water System (System), has violated the National Primary Drinking Water Regulations at 40 C.F.R. part 141 (Drinking Water Regulations). EPA left several messages for the Site Superintendent, Mr. Ellis, to discuss these violations and offer compliance assistance but a return call was not received.

The Order is effective upon the date received. Please review the Order and within 10 days provide the EPA with any information the SPCR believes the EPA may not have (for example, monitoring that may have been done but not submitted, updates to the numbers of connections and/or individuals served). If the EPA does not hear from the SPCR, the EPA will assume the information in the Order is correct.

If the SPCR 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.

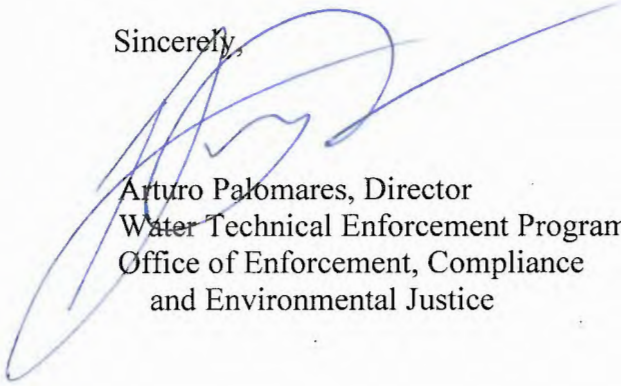
The Small Business Regulatory Enforcement and Fairness Act (SBREFA) may apply to this situation. Enclosed is a small business information sheet, outlining compliance assistance resources available to small businesses and small governments, in case these are relevant. SBREFA does not eliminate the responsibility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

The Order requires SPCR 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 or to request an informal conference with the EPA, please contact Kathelene Brainich via email at [brainich.kathelene@epa.gov](mailto:brainich.kathelene@epa.gov) or by phone at (800) 227-8917, extension 6481 or (303) 312-6481. Any questions from your attorney should be directed to Mia Bearley, enforcement attorney, who may be reached via email at [bearley.mia@epa.gov](mailto:bearley.mia@epa.gov), by phone at (800) 227-8917, extension 6554, or (303) 312-6554, or at the above address (with the mailcode 8ENF-L).

We urge your prompt attention to this matter.

Sincerely,



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

Enclosures

cc: Joe Ellis, South Pass City Historic Site ([joe.ellis@wyo.gov](mailto:joe.ellis@wyo.gov))  
Nick Neylon, West Region Manager, SPCR ([nick.neylon@wyo.gov](mailto:nick.neylon@wyo.gov))  
WY DEQ/DOH (via email)  
Melissa Haniewicz, EPA Regional Hearing Clerk



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CERTIFIED MAIL LETTER  
RETURN RECEIPT REQUESTED

Fremont County Commissioners  
c/o Travis Becker, Chair  
450 N. 2<sup>nd</sup>, Room 220  
Lander, Wyoming 82520

Re: Notice of Safe Drinking Water Act Enforcement Action against the Wyoming Department of State Parks and Cultural Resources (South Pass City Historic Site), PWS ID#5601137

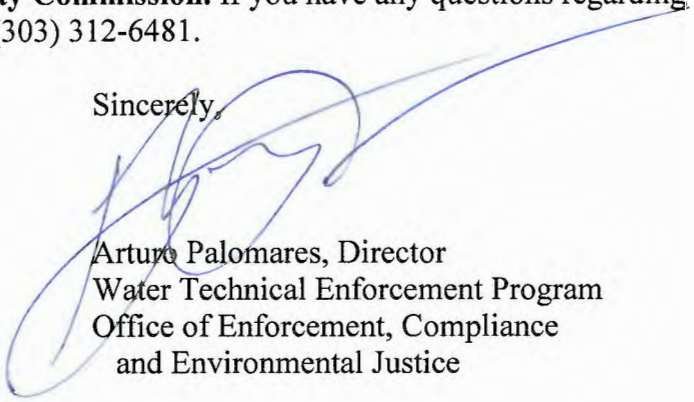
Dear Commissioners:

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

An Administrative Order is being issued to the Wyoming Department of State Parks and Cultural Resources, as owner/operator of the South Pass City Historic Site in South Pass, Wyoming. The violations alleged in the Order are failure to monitor for total coliform bacteria, failure to conduct seasonal start-up procedures, and failure to notify the public and the EPA of the violations.

For more details, a copy of the Order is enclosed for your information. **The Order does not require any response or action by the County Commission.** If you have any questions regarding this Order, please contact Kathelene Brainich at (303) 312-6481.

Sincerely,



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

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2017 JUL 12 PM 3:39

IN THE MATTER OF: )  
 )  
Wyoming Department of State )  
Parks and Cultural Resources )  
(South Pass City Historic Site) )  
 )  
Respondent. )

Docket No. SDWA-08-2017-0023

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ADMINISTRATIVE ORDER

1. This Order is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by section 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g), as properly delegated to the undersigned officials.
2. The Wyoming Department of State Parks and Cultural Resources (Respondent) is a State agency that owns and/or operates the South Pass City Historic Site Water System (System), which provides piped water to the public in Fremont County, Wyoming, for human consumption.
3. The System is supplied by a groundwater source accessed via two wells and is operated seasonally from April through September. The water is treated by filtration.
4. The System has approximately 12 service connections and regularly serves at least 103 individuals daily at least 60 days out of the year. 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 “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 section 1414(i) of the Act, 42 U.S.C. § 300g-3(i).
6. The 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 each 2<sup>nd</sup> (April-June) and 3<sup>rd</sup> (July-September) quarter. 40 C.F.R. § 141.21(a). Respondent failed to monitor the System’s water for total coliform bacteria during the 2<sup>nd</sup> and 3<sup>rd</sup> quarters of 2012 and the 3<sup>rd</sup> quarter of 2015 and, therefore, violated this requirement.
8. Under the Revised Total Coliform Rule, effective April 1, 2016, Respondent is required to monitor the System’s water monthly for total coliform bacteria from April through September. 40 C.F.R. § 141.853-858. Respondent failed to monitor the System’s water for total coliform bacteria during the months of April 2017 and April, June, July, August, and September 2016 and, therefore, violated this requirement.

9. Respondent is required to complete seasonal start-up procedures and send a certification of completion to the EPA prior to opening to the public each year. 40 C.F.R. §§ 141.854-861. Respondent failed to complete seasonal start-up procedures and/or submit a certification of completion to the EPA prior to opening to the public in April 2017 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. §§ 141.201-141.211. Respondent failed to notify the public of the violations cited in paragraphs 7, 8, and 9, above, and, therefore, violated this requirement.

11. Respondent is required to report any violation of coliform monitoring requirements to the EPA within 10 days after discovering the violation. 40 C.F.R. §§ 141.21(g)(2) and 141.861(a)(4). Respondent failed to report the violations listed in paragraphs 7 and 8, above, to the EPA and, therefore, violated this requirement.

12. Respondent is required to report any failure to comply with any Drinking Water Regulation to the 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 paragraph 9, above, to the 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 monthly for total coliform bacteria from April through September each year. If a sample is positive for total coliform, within 24 hours of being notified of the positive result, Respondent shall collect a set of three repeat samples for each total coliform-positive sample. 40 C.F.R. §§ 141.853-858. Respondent shall report total coliform analytical results to the EPA within the first 10 days following the month in which Respondent receives sample results. 40 C.F.R. § 141.31(a). Respondent shall report any violation of coliform monitoring requirements to the EPA within 10 days after discovering the violation. 40 C.F.R. § 141.861(a)(4).

14. Respondent shall complete seasonal start-up procedures and send a certification of completion to the EPA prior to opening to the public each year. 40 C.F.R. §§ 141.854-860.

15. Within 30 days after receipt of this Order, Respondent shall notify the public of the violations cited in paragraphs 7-9, above, following the instructions enclosed with this Order. Following any future violation of the Drinking Water Regulations, Respondent shall comply with any applicable public notice provisions of 40 C.F.R. part 141, subpart Q. Within 10 days after providing public notice, Respondent shall send a copy of the certified notice to the EPA.



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

17. If Respondent contracts with or hires any other person or entity to operate the System, Respondent shall provide a copy of this Order to the contractor or employee and notify the EPA in writing of the contract or hire within 10 days. Respondent shall remain obligated to comply with this Order even if Respondent hires another person or entity to operate the System.

18. Respondent shall send all reporting and notifications required by this Order in writing:

Email: R8DWU@epa.gov  
Fax: (877) 876-9101  
U.S. EPA Region 8 (8WP-SD)  
1595 Wynkoop Street, Denver, CO 80202-1129

**GENERAL PROVISIONS**

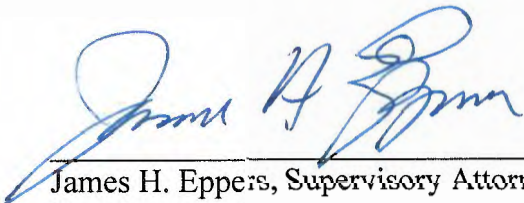
19. This Order shall not constitute a waiver, suspension or modification of any requirement of the Act or the Drinking Water Regulations. Issuance of this Order is not an election by the EPA to forgo any civil or criminal action.

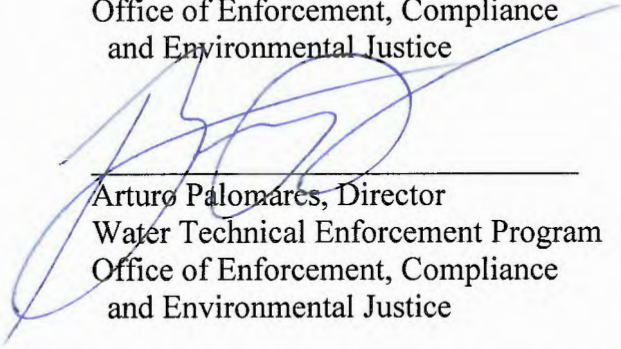
20. Violation of any part of this Order or the Drinking Water Regulations may subject Respondent to a civil penalty of up to \$54,789 (as adjusted for inflation) per day of violation. 42 U.S.C. § 300g-3; 40 C.F.R. part 19; 81 Fed. Reg. 43091 (January 12, 2017).

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

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

Issued: July 12, 2017.

  
James H. Eppers, Supervisory Attorney  
Regulatory Enforcement Unit  
Office of Enforcement, Compliance  
and Environmental Justice

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

# DRINKING WATER NOTICE

## SOUTH PASS CITY HISTORIC SITE Failed to Monitor for Total Coliform and Failed to Complete Seasonal Start-up Procedures

Our water system violated several drinking water regulations and, even though these were not emergencies, as our customers you have a right to know what happened and what we did/will do to correct these situations.

We are required to monitor the drinking water for specific contaminants on a regular basis. Results of regular monitoring are indicators of whether or not the drinking water meets health standards. During April 2017; April, June, July, August and September 2016; 3<sup>rd</sup> quarter 2015 and the 2<sup>nd</sup> and 3<sup>rd</sup> quarters of 2012, we did not monitor for total coliform bacteria and therefore cannot be sure of the quality of the drinking water during that time. *Note: the monitoring frequency for total coliform bacteria changed from being required quarterly to being required monthly effective April 1, 2016.*

We also failed to conduct seasonal start-up procedures before opening for the 2017 season.

**What should I do?**

There is nothing you need to do at this time. This is not an emergency. If it had been, you would have been notified within 24 hours. We do not know of any cases of contamination.

The table below lists information regarding the contaminant/actions we did not properly complete.

Contaminant	Frequency Required	Number of Samples Taken	When Samples were Required	When Samples were Taken
Total coliform bacteria	Monthly	0	April 2017	None yet this year
Total coliform bacteria	Monthly	0	Apr, Jun, Jul, Aug & Sept 2016	May 2016
Total coliform bacteria	Quarterly	0	3 <sup>rd</sup> quarter 2015	2 <sup>nd</sup> quarter 2015
Total coliform bacteria	Quarterly	0	2 <sup>nd</sup> & 3 <sup>rd</sup> quarters 2012	2 <sup>nd</sup> quarter 2014
Seasonal startup procedures	Annually	0	Prior to opening for season	New requirement

**Steps We Are Taking:** We will monitor as required and do seasonal start-up procedures in the future.

**For more information:** JOE ELLIS @ 307-332-3684.

*Please share this information with all the other people who drink this water, especially those who may not have received this notice. You can do this by posting this notice in a public place or distributing copies by hand or mail.*

\*\*\*\*\*

Certification

Post this notice for a minimum of 7 days when the system is open to the public. Sign below, note the dates posted, and send a copy to the completed notice to the EPA at [brainich.kathelene@epa.gov](mailto:brainich.kathelene@epa.gov) or fax to 303-312-7518 Attn: Brainich.

..... Dates posted: \_\_\_\_\_ Signature \_\_\_\_\_

## **Template on Reverse**

A system's failure to take corrective action within the required timeframe or be in compliance with a state-approved corrective action plan and schedule for a significant deficiency under the Ground Water Rule (GWR) is a treatment technique violation and requires Tier 2 notification. You must provide public notice to persons served as soon as practical but within 30 days after you learn of the violation [40 CFR 141.203(b)]. You must issue a repeat notice every three months for as long as the violation persists. Your state may have more stringent requirements for treatment technique violations. Check with your state to make sure you meet all requirements.

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

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

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.

### **Corrective Action**

In your notice, describe corrective actions you are taking. Listed below are some steps commonly taken by water systems with Ground Water Rule treatment technique violations. You can use one or more of the following statements, if appropriate, or develop your own text:

- Although we did not meet our deadline, we are now in consultation with the state to develop a corrective action plan.
- The significant deficiency has been addressed.
- We have implemented a short term plan to address the immediate issue while we pursue the long-term solution.

### **After Issuing the Notice**

Make 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)].

It is a good idea to inform your consumers when the violation has been resolved, especially if you have regular customers. See Template NC-7 for a "problem corrected" notice template.



## U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources 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.

### Office of Small and Disadvantaged Business Utilization (OSDBU)

[www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu](http://www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu)

EPA's OSDBU advocates and advances business, regulatory, and environmental compliance concerns of small and socio-economically disadvantaged businesses.

### EPA's Asbestos Small Business Ombudsman (ASBO)

[www.epa.gov/resources-small-businesses/asbestos-small-business-ombudsman](http://www.epa.gov/resources-small-businesses/asbestos-small-business-ombudsman) or 1-800-368-5888

The EPA ASBO serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

### Small Business Environmental Assistance Program

<https://nationalsbeap.org>

This program provides a "one-stop shop" for small businesses and assistance providers seeking information on a wide range of environmental topics and state-specific environmental compliance assistance resources.

### EPA's Compliance Assistance Homepage

[www.epa.gov/compliance](http://www.epa.gov/compliance)

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

### Compliance Assistance Centers

[www.complianceassistance.net](http://www.complianceassistance.net)

EPA sponsored 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](http://www.epa.gov/agriculture)

### Automotive Recycling

[www.ecarcenter.org](http://www.ecarcenter.org)

### Automotive Service and Repair

[www.ccar-greenlink.org](http://www.ccar-greenlink.org) or 1-888-GRN-LINK

### Chemical Manufacturing

[www.chemalliance.org](http://www.chemalliance.org)

### Construction

[www.cicacenter.org](http://www.cicacenter.org)

### Education

[www.campuserc.org](http://www.campuserc.org)

### Food Processing

[www.fpeac.org](http://www.fpeac.org)

### Healthcare

[www.hercenter.org](http://www.hercenter.org)

### Local Government

[www.lgean.org](http://www.lgean.org)

### Surface Finishing

<http://www.sterc.org>

### Paints and Coatings

[www.paintcenter.org](http://www.paintcenter.org)

### Printing

[www.pneac.org](http://www.pneac.org)

### Ports

[www.portcompliance.org](http://www.portcompliance.org)

### Transportation

[www.tercenter.org](http://www.tercenter.org)

### U.S. Border Compliance and Import/Export Issues

[www.bordercenter.org](http://www.bordercenter.org)

### EPA Hotlines and Clearinghouses

[www.epa.gov/home/epa-hotlines](http://www.epa.gov/home/epa-hotlines)

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Examples include:

### Clean Air Technology Center (CATC) Info-line

[www.epa.gov/catc](http://www.epa.gov/catc) or 1-919-541-0800

### Superfund, TRI, EPCRA, RMP, and Oil Information Center

1-800-424-9346

### EPA Imported Vehicles and Engines Public Helpline

[www.epa.gov/otaq/imports](http://www.epa.gov/otaq/imports) or 1-734-214-4100

### National Pesticide Information Center

[www.npic.orst.edu](http://www.npic.orst.edu) or 1-800-858-7378

**National Response Center Hotline** to report oil and hazardous substance spills - <http://nrc.uscg.mil> or 1-800-424-8802

### Pollution Prevention Information Clearinghouse (PPIC) -

[www.epa.gov/p2/pollution-prevention-resources#ppic](http://www.epa.gov/p2/pollution-prevention-resources#ppic) or 1-202-566-0799

### Safe Drinking Water Hotline -

[www.epa.gov/ground-water-and-drinking-water/safe-drinking-water-hotline](http://www.epa.gov/ground-water-and-drinking-water/safe-drinking-water-hotline) or 1-800-426-4791

### Toxic Substances Control Act (TSCA) Hotline

[tsc hotline@epa.gov](mailto:tsc hotline@epa.gov) or 1-202-554-1404

**Small Entity Compliance Guides**

<https://www.epa.gov/reg-flex/small-entity-compliance-guides>

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 604 of the Regulatory Flexibility Act (RFA).

**Regional Small Business Liaisons**

[www.epa.gov/resources-small-businesses/epa-regional-office-small-business-liaisons](http://www.epa.gov/resources-small-businesses/epa-regional-office-small-business-liaisons)

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

**State Resource Locators**

[www.envcap.org/statetools](http://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)**

<https://nationalsbeap.org/states/list>

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

**EPA's Tribal Portal**

[www.epa.gov/tribalportal](http://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/enforcement/small-businesses-and-enforcement](http://www.epa.gov/enforcement/small-businesses-and-enforcement)

**EPA's Audit Policy**

[www.epa.gov/compliance/epas-audit-policy](http://www.epa.gov/compliance/epas-audit-policy)

**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).

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.*