



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-L

SEP 29 2014

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Tonia Lynn Caneva
Registered Agent/Principal for Sunny Carpet & Upholstery Cleaning, Inc.
1899 Cedar Street
Broomfield, CO 80020

Re: Penalty Complaint and Notice of Opportunity for Hearing
DOCKET NO.: **SDWA-08-2014-0054**

Dear Ms. Caneva:

The enclosed document is a Complaint with Notice of Opportunity for Hearing (Complaint) for violating the Safe Drinking Water Act (SDWA). We encourage you to carefully read the Complaint, since it describes Sunny Carpet & Upholstery Cleaning, Inc.'s (Sunny Carpet) rights and responsibilities in this matter as well as EPA's authority, the factual basis of the violations, and the background for the proposed penalties. Also enclosed is a copy of the Rules of Practice that govern these proceedings, the required Public Notice associated with this Complaint and, in case Sunny Carpet meets the criteria, an information sheet about the Small Business Regulatory Enforcement Fairness Act.

Sunny Carpet is required to take action within 30 calendar days of your receipt of this Complaint to avoid the possibility of having a default judgment entered against Sunny Carpet that could impose the penalty amount proposed in the Complaint.

Under the Rules of Practice, Sunny Carpet may resolve this proceeding by paying the \$750 proposed penalty within ten (10) calendar days after the close of the public comment period described in the Complaint. Such payment need not contain any response to, or admission of, the allegations in the complaint, and it constitutes a waiver of Sunny Carpet's right to contest the allegations and to appeal the final order. See section 22.18 of the Rules of Practice for a full explanation of the quick resolution process, including the method for seeking an extension of the time to pay the penalty. Whether or not Sunny Carpet requests a hearing, we encourage an informal conference with EPA concerning the alleged violations in an effort to negotiate a settlement. Sunny Carpet may wish to appear at an informal conference and/or be represented by legal counsel. To arrange for such a conference, Sunny Carpet should contact Eduardo Quintana, Enforcement Attorney, Legal Enforcement Program, at the number provided below. Requesting a conference does not extend the 30 calendar day period during which a request for hearing must be submitted.

Public Notice of EPA's Complaint and the opportunity to provide written comments on the Complaint is being provided pursuant to section 1423 (c)(3)(B) of the SDWA, 42 U.S.C. § 300h-2(c)(3)(B). Should a hearing be held, any person who comments on the Complaint has a right to participate in the hearing.

Sunny Carpet was in violation of 40 C.F.R. §§ 144.11 and 144.83 for operating an unauthorized injection well. Failure to comply with the UIC regulations found at 40 C.F.R. part 144 is a violation of the SDWA, 42 U.S.C. § 300h.

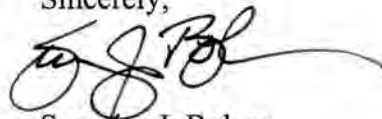
If Sunny Carpet has technical questions relating to this matter, the person most knowledgeable on my staff is Christopher Ajayi, UIC Enforcement Team, Technical Enforcement Program, at 1-800-227-8917 ext. 6320 or (303) 312-6320. For all legal questions, the person most knowledgeable on my staff is Eduardo Quintana at 1-800-227-8917 ext. 6924 or (303) 312-6924. Mr. Ajayi and Mr. Quintana can also be reached at the following addresses:

Christopher Ajayi (Mail Code 8ENF-UFO)
U.S. EPA Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129

Eduardo Quintana (Mail Code 8ENF-L)
Enforcement Attorney
U.S. EPA Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129

We urge Sunny Carpet's prompt attention to this matter.

Sincerely,



Suzanne J. Bohan
Acting Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosures

1. Proposed Compliance Order, Penalty Complaint and Notice of Opportunity for Hearing
2. Part 22 Rules of Practice
3. Public Notice
4. U.S. EPA Small Business Resources Fact Sheet

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2014 SEP 29 PM 4:31

Docket No. : SDWA-08-2014-0054

FILED
EPA REGION VIII
HEARING CLERK

In the Matter of:)

Sunny Carpet)
& Upholstery Cleaning, Inc.,)

Respondent.)

**COMPLAINT WITH NOTICE OF
OPPORTUNITY FOR HEARING**

INTRODUCTION

1. This civil Complaint With Notice of Opportunity for Hearing (Complaint) is authorized by Congress in section 1423(c) of the Public Health Service Act, also known as the Safe Drinking Water Act (the Act). 42 U.S.C. § 300h-2(c). The U.S. Environmental Protection Agency (EPA) has promulgated regulations to implement the statute in 40 CFR part 144, and violations of the statute, permits or regulations constitute violations of the Act. The rules for this proceeding are the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits (Rules of Practice)," 40 CFR part 22, a copy of which is enclosed.

2. The regulations at 40 CFR part 22, subpart I, apply to this Complaint.

3. The undersigned EPA official has been properly delegated the authority to issue this Complaint.

4. The EPA alleges that Sunny Carpet & Upholstery Cleaning, Inc., (Respondent) has violated the Act by operating an unauthorized injection well in violation of 40 CFR §§ 144.11 and 144.83. The EPA proposes the assessment of a civil penalty, as more fully explained below.

NOTICE OF OPPORTUNITY FOR A HEARING

5. Respondent has the right to a public hearing before a Presiding Officer to disagree with any factual allegation made by the EPA in the Complaint or the appropriateness of the proposed penalty, or to present the grounds for any legal defense it may have. To disagree with the Complaint and assert Respondent's right to a hearing, Respondent must file a written answer (and one copy) with the Regional Hearing Clerk (8RC), 1595 Wynkoop Street, Denver, Colorado 80202 within thirty (30) calendar days of receipt of this Complaint. 40 CFR § 22.15(a). The answer must clearly admit, deny or explain the factual allegations of the Complaint, state the grounds for any defense, the facts Respondent may dispute, and Respondent's specific request

for a public hearing. Please see section 22.15 of the Rules of Practice for a complete description of what must be in the answer.

FAILURE TO FILE AN ANSWER AND REQUEST FOR HEARING WITHIN THIRTY (30) CALENDAR DAYS MAY WAIVE RESPONDENT'S RIGHT TO DISAGREE WITH THE ALLEGATIONS OR PROPOSED PENALTY, AND RESULT IN A DEFAULT JUDGMENT AND ASSESSMENT OF THE PENALTY PROPOSED IN THE COMPLAINT, OR UP TO THE MAXIMUM AUTHORIZED BY THE ACT.

QUICK RESOLUTION

6. Respondent may resolve this proceeding by paying the amount proposed in the Complaint ten (10) calendar days after the close of the public comment period described in this Complaint. Such payment need not contain any response to, or admission of, the allegations in the Complaint, and it constitutes a waiver of Respondent's right to contest the allegations and to appeal the final order. See section 22.18 of the Rules of Practice for a full explanation of the quick resolution process, including the method for seeking an extension of the time to file an answer. This payment shall be made by remitting a cashier's or certified check for that amount, payable to "Treasurer, United States of America," by regular U.S. mail to:

U.S. Environmental Protection Agency / Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

SETTLEMENT NEGOTIATIONS

7. The EPA encourages discussing whether cases can be settled through informal settlement conferences. If Respondent wants to pursue the possibility of settling this matter, or has any other questions, contact Eduardo Quintana, Enforcement Attorney, at 1-800-227-8917; extension 6924 or 303-312-6924. **Please note that calling Mr. Quintana or requesting a settlement conference does NOT delay the running of the 30 day period for filing an answer and requesting a hearing.**

GENERAL ALLEGATIONS

The following general allegations apply to all times relevant to this action, and to the count of this Complaint:

8. Pursuant to section 1422 of the Act, 42 U.S.C. § 300h-1, and 40 C.F.R. part 147 subpart G, section 147.301, the EPA administers the Underground Injection Control (UIC) program for Class I, III, IV, and V wells in the State of Colorado. The effective date of the program is June 25, 1984. The program requirements are located at 40 C.F.R. parts 124, 144, 146, 147, and 148.

9. Pursuant to 40 C.F.R. section 144.11, "any underground injection, except into a well authorized by rule or except as authorized by permit issued under the UIC program, is prohibited. The construction of any well required to have a permit is prohibited until the permit has been issued."

10. Pursuant to 40 C.F.R. section 144.83, any Class V Waste Disposal Well operator must comply with inventory requirements.

11. On May 15, 2013, authorized representatives of the EPA inspected Respondent's property located at 1899 Cedar Street, Broomfield, Colorado as a result of a complaint of unauthorized injection in the front lawn of the property.

12. Ms. Tonia Lynn Caneva, a principal and operator of Respondent, confirmed during the inspection that Respondent had regularly disposed 10 to 30 gallons of waste water from the company's carpet cleaning truck into a hole that is approximately three feet deep. The hole is located in the front lawn of Respondent's property.

13. According to Ms. Caneva, Respondent had stopped disposing the carpet cleaning waste water about three (3) months prior to EPA's inspection on May 15, 2013. At the time of the inspection, Ms. Caneva claimed that Respondent's current disposal practice was to dispose the carpet cleaning waste water through her bathroom toilet.

14. At the inspection, Ms. Caneva showed the EPA inspectors a gallon bottle of the citrus based cleaner labeled "Adco Citrus Blaster and Grease Eraser" used as the primary cleaning agent by the Company. Respondent's carpet cleaning waste water contained a mixture of the carpet cleaning agent.

15. Based on the inspection described above, the EPA alleges that Respondent owns and/or operates a Class V Waste Disposal Well. 40 C.F.R. § 144.80(e).

16. Respondent is incorporated in the State of Colorado.

17. Respondent is a "person" within the meaning of section 1401(12) of the Act, 42 U.S.C. § 300f(12).

18. Respondent, at all times pertinent hereto, owned and operated a carpet cleaning company which produces waste water from carpet cleaning operation. The facility where Ms. Caneva has admitted disposing the carpet cleaning waste water is located at 1899 Cedar Street, Broomfield, CO.

19. Beneath the disposal system are underground sources of drinking water (USDWs), including but not limited to the Denver Basin Aquifer System.

COUNT

20. Respondent was in violation of 40 C.F.R. §§ 144.11 and 144.83 for unauthorized injection of carpet cleaning waste fluids. Failure to comply with the UIC regulations found at 40 C.F.R. part 144 is a violation of the Act, 42 U.S.C. § 300h.

PROPOSED ORDER WITH ADMINISTRATIVE CIVIL PENALTY

21. The Act, as amended, authorizes the assessment of a civil penalty of up to \$16,000.00 per day for each violation of the Act, up to a maximum of \$187,500, 42 U.S.C. § 300h-2(c)(1). The Act requires the EPA to take into account the following factors in assessing a civil penalty: the nature, circumstances, extent and gravity of the violations; any economic benefit or savings gained resulting from the violations; Respondent's history of such violations; Respondent's culpability for the violations; Respondent's good-faith efforts to comply with applicable requirements; the economic impact of the penalty on the Respondent; and other factors that justice may require. 42 U.S.C. §300h-2(c)(4)(B).

22. In light of the statutory factors and the specific facts of this case, the EPA proposes that a penalty of seven hundred fifty dollars (\$750.00) be assessed against Respondent for the violations alleged above, as explained below:

Nature, Circumstances, Extent, and Gravity of Violations

Unauthorized injection is serious because of the threats to the quality and health of the Aquifer and the potential threats to health of persons posed by Respondent's noncompliance.

Prior Compliance History

No adjustment made regarding this factor at this time.

Good-Faith Efforts to Comply

Respondent made an effort to comply with the requirements of the regulations before the EPA contacted Respondent.

Degree of Culpability

No adjustment made regarding this factor at this time.

Economic Benefit

Any economic benefit of unauthorized injection was negligible because of the quantity of waste water injected each time (10 to 30 gallons).

Ability to Pay

The EPA did not reduce the proposed penalty due to this factor, but will consider any new information Respondent may present regarding Respondent's ability to pay the penalty proposed in this Complaint.

Other Matters that Justice may Require

A downward adjustment was made to the proposed penalty because of the size of the company.

23. The EPA, in proposing this penalty, considered, among other things, the following: (a) there are underground sources of drinking water contained in the geologic formations in the area where this well is located; and (b) wells with this type of violation pose an elevated risk to underground sources of drinking water.

24. As required by the Act, prior to the assessment of a civil penalty, the EPA will provide public notice of the proposed penalty, and reasonable opportunity for the people to comment on the matter, and present evidence in the event a hearing is held. 42 U.S.C. § 1423(c)(3)(B).

25. The Presiding Officer is not bound by the EPA's penalty policy or the penalty proposed by the EPA, and may assess a penalty above the proposed amount, up to the \$16,000.00 per day for each violation, as authorized by the Act.

26. This Complaint does not constitute a waiver, suspension, or modification of the requirements of any applicable provision of the Act or the UIC regulations implementing the Act, which remain in full force and effect. Issuance of this Complaint is not an election by the EPA to forego any civil or any criminal action otherwise authorized under the Act.

Date: SEP 29 2014



Suzanne J. Bohan
Acting Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and one copy of the COMPLAINT WITH NOTICE OF OPPORTUNITY FOR HEARING was hand-carried to the Regional Hearing Clerk, EPA Region 8, 1595 Wynkoop Street, Denver, Colorado, and that a true copy of the same, with enclosures, was sent via certified mail to:

Tonia Lynn Caneva
Registered Agent/Principal for Sunny Carpet & Upholstery Cleaning, Inc.
1899 Cedar Street
Broomfield, CO 80020

SEP 29 2014
Date

Gayle Aldinger
for Joan Setty

**U.S. ENVIRONMENTAL PROTECTION AGENCY
PUBLIC NOTICE
OPPORTUNITY FOR PUBLIC COMMENT ON
PROPOSED COMPLIANCE ORDER, PENALTY COMPLAINT,
AND
NOTICE OF OPPORTUNITY FOR HEARING
AGAINST
SUNNY CARPET & UPHOLSTERY CLEANING, INC.
FOR FAILURE TO COMPLY WITH
UNDERGROUND INJECTION CONTROL REGULATIONS**

PURPOSE OF PUBLIC NOTICE

The purpose of this notice is to solicit written comments on a Proposed Compliance Order, Penalty Complaint, and Notice of Opportunity for Hearing (Complaint) [Docket No. SDWA-08-2014-] that Region 8 of the United States Environmental Protection Agency (EPA) proposes to issue to Sunny Carpet & Upholstery Cleaning, Inc. (Respondent), for alleged violations at the facility located at 1899 Cedar Street, Broomfield, Colorado. The Complaint alleges violations of the Safe Drinking Water Act (SDWA) and the regulations detailing the requirements of the SDWA's Underground Injection Control (UIC) program. These regulations govern the injection of fluids that may endanger an underground source of drinking water (USDW). The Complaint proposes compliance requirements and monetary penalties for the alleged violations.

The EPA desires to receive written comments from any interested party having knowledge of the alleged violations or who can provide any information useful to ensure that the Complaint is appropriate. EPA will review and consider all comments received, and will thereafter determine whether to modify or withdraw the Complaint.

BACKGROUND

Part C of the SDWA (40 U.S.C. § 300h, *et seq.*) requires the EPA to regulate underground injection of fluid through wells to assure that underground sources of drinking water (USDWs) are not endangered. Section 1421 of the SDWA (40 U.S.C. § 300h) requires EPA to administer UIC programs in States that do not have approved State UIC programs. Regulation of the UIC Class V Program has not been delegated to the State of Colorado; therefore, EPA administers the program in accordance with title 40 of the Code of Federal Regulations (40 C.F.R.) parts 124, 144, 146, 147, and 148.

The Class V waste disposal well which is the subject of this Complaint is located at 1899 Cedar Street, Broomfield, Colorado. A Class V injection well, pursuant to 40 C.F.R. §§ 144.6 and 146.5, is a shallow injection well that injects fluids into or above a USDW.

The Complaint alleges that the Respondent is in violation of UIC regulations and is subject to appropriate penalties for operating an unauthorized Class V injection well. Respondent's well may allow the movement of fluids into a USDW that may cause a violation of a primary drinking water regulation under 40 C.F.R. part 142 or otherwise adversely affect the health of persons and for unauthorized injection of carpet cleaning waste fluids in violation of 40 C.F.R §§ 144.11 and 144.83.

The Complaint cites that the EPA may assess an administrative civil penalty of up to \$16,000 per day, for each violation of the Act, up to a maximum of \$187,500 and proposes certain compliance measures, including the permanent closure of the well. In light of the statutory factors and the specific facts of this case, the EPA proposes a penalty of \$750.

PUBLIC COMMENTS

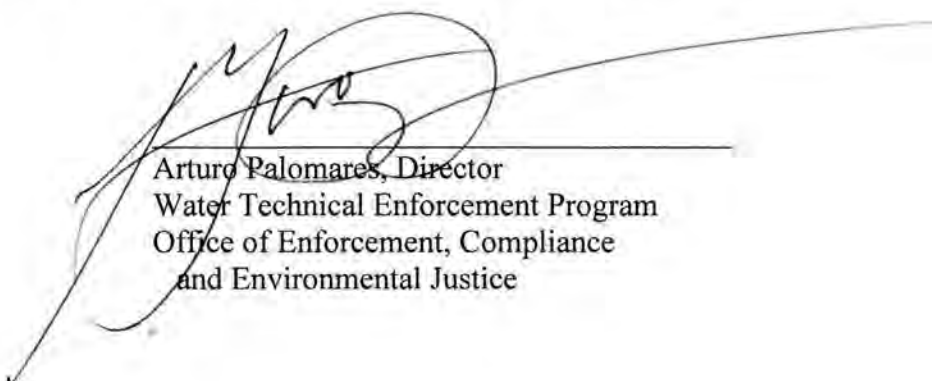
Written comments on the Complaint are encouraged and will be accepted at the address listed below for a period of thirty (30) calendar days after the publication of this notice. Written comments submitted by the public as well as information submitted by Sunny Carpet & Upholstery Cleaning Inc., will be available for public review as part of the Administrative Record, subject to the provisions of law restricting the disclosure of confidential information. Sunny Carpet & Upholstery, Inc., may request a hearing. Any person submitting written comments will be notified of and has a right to participate in such a hearing. The Complaint and the Administrative Record are available for review between 9:00 a.m. and 4:00 p.m. at the address listed below. It is recommended that those wishing to view the Administrative Record call Eduardo Quintana, Enforcement Attorney, Legal Enforcement Program, EPA Region 8, at (303) 312-6924 before visiting the EPA Region 8 offices. Please submit written comments to:

Tina Artemis (8RC)
Regional Hearing Clerk
U.S. EPA, Region 8
1595 Wynkoop Street
Denver, Colorado 80202

Any person interested in receiving their own copy of this or any future public notice of a UIC administrative action can call Christopher Ajayi in the UIC program, EPA Region 8, at (303) 312-6320.

THE DECISION

EPA will review and consider all public comments received on the public notice and will thereafter determine whether to modify or withdraw the Complaint. If the Complaint is revised, copies shall be provided to all parties and to all members of the public who have commented.



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

40 CFR Ch. I (7-1-10 Edition)

**PART 22—CONSOLIDATED RULES
OF PRACTICE GOVERNING THE
ADMINISTRATIVE ASSESSMENT OF
CIVIL PENALTIES AND THE REV-
OCATION/TERMINATION OR SUS-
PENSION OF PERMITS**

Subpart A—General

- Sec.
- 22.1 Scope of this part.
 - 22.2 Use of number and gender.
 - 22.3 Definitions.
 - 22.4 Powers and duties of the Environ-mental Appeals Board, Regional Judicial Officer and Presiding Officer; disquali-fication, withdrawal, and reassignment.
 - 22.5 Filing, service, and form of all filed documents; business confidentiality claims.
 - 22.6 Filing and service of rulings, orders and decisions.
 - 22.7 Computation and extension of time.
 - 22.8 *Ex parte* discussion of proceeding.
 - 22.9 Examination of documents filed.

Subpart B—Parties and Appearances

- 22.10 Appearances.
- 22.11 Intervention and non-party briefs.
- 22.12 Consolidation and severance.

Subpart C—Prehearing Procedures

- 22.13 Commencement of a proceeding.
- 22.14 Complaint.
- 22.15 Answer to the complaint.
- 22.16 Motions.
- 22.17 Default.
- 22.18 Quick resolution; settlement; alter-native dispute resolution.
- 22.19 Prehearing information exchange; pre-hearing conference; other discovery.
- 22.20 Accelerated decision; decision to dis-miss.

Subpart D—Hearing Procedures

- 22.21 Assignment of Presiding Officer; scheduling the hearing.
- 22.22 Evidence.
- 22.23 Objections and offers of proof.
- 22.24 Burden of presentation; burden of per-suasion; preponderance of the evidence standard.
- 22.25 Filing the transcript.
- 22.26 Proposed findings, conclusions, and order.

**Subpart E—Initial Decision and Motion to
Reopen a Hearing**

- 22.27 Initial decision.
- 22.28 Motion to reopen a hearing.

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](http://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](http://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](http://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

tsca-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.