



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET

DENVER, CO 80202-1129

Phone 800-227-8917

<http://www.epa.gov/region08>

October 1, 2012

8ENF-UFO

CERTIFIED MAIL - 7009 3410 0000 2597 1648 - RETURN RECEIPT REQUESTED

Travis H. Perry, Registered Agent  
300 Main Street, Suite 202  
Grand Junction, CO 81501

Re: Transmittal of Administrative Complaint and Opportunity to Request Hearing

Dear Mr. Perry:

Enclosed please find an Administrative Complaint and Notice of Opportunity for Hearing (Complaint) issued by the U.S. Environmental Protection Agency (EPA) pursuant to its authority under § 311(b)(6)(B) of the Clean Water Act (Act), 33 U.S.C. § 1321(b)(6)(B). The Complaint is based on an alleged violation of § 311(b)(3) of the Act. Specifically, the Complaint cites Gilco Transportation, Inc. (Gilco) for discharging oil into a water of the U.S. from its vehicle on August 27, 2011, in violation of section 311(b)(3) of the Act, 33 U.S.C. § 1311(b)(3).

The Complaint proposes the assessment of administrative penalties against Gilco in the amount of \$25,284, based on the alleged violation of § 311(b)(3) of the Act. EPA proposed this penalty amount after considering the applicable statutory penalty factors in § 311(b)(8) of the Act, 33 U.S.C. § 1321(b)(8): the seriousness of the violations; the economic benefit to the violator resulting from the violations; the degree of culpability involved; any other penalty for the same incident; any history of prior violations; the nature, extent, and degree of success of any efforts to minimize or mitigate the effects of the discharge; the economic impact of the penalty on the violator; and any other factors as justice may require.

Gilco has the right to a hearing to contest the factual allegations in the Complaint. If Gilco admits the allegations, or the allegations are found to be true after it has an opportunity for a hearing, Gilco has the right to contest the penalty proposed in the Complaint. A copy of EPA's administrative procedures is enclosed for review. Please note the requirements for an answer set forth in 40 C.F.R. §§ 22.15 and 22.38. If Gilco wishes to contest the allegations or the penalties proposed in the Complaint, it must file a written answer within thirty (30) days of receipt of the enclosed Complaint with the EPA Regional Hearing Clerk at the following address:

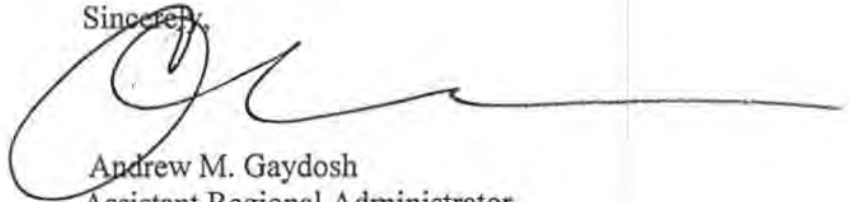
Ms. Tina Artemis, Regional Hearing Clerk (8RC)  
U.S. EPA, Region 8  
1595 Wynkoop Street  
Denver, CO 80202-1129

If Gilco does not file an answer by the applicable deadline, it will have defaulted and each allegation in the Complaint will be deemed to be admitted as true. Gilco will have waived its right to appear in these actions for any purpose and will also have waived its right to be notified of any Agency proceedings that occur before a civil penalty may be imposed. Provided that the Complaint is legally sufficient, EPA may file a motion for default for the amount proposed in the Complaint.

Whether or not Gilco requests a hearing, it may confer informally with EPA concerning the alleged violations or the proposed penalty amounts. Gilco has the right to be represented by an attorney at any stage of the proceedings, including any informal discussions with EPA, but it is not required. A request for an informal conference does not extend the thirty (30) day period for filing an answer and/or requesting a hearing.

If Gilco has any questions, the most knowledgeable people on my staff regarding this matter are Brenda L. Morris and Donna K. Inman. Ms. Morris is in our Legal Enforcement Program and can be reached at (303) 312-6891. Ms. Inman is in our Technical Enforcement Program and can be reached at (303) 312-6201.

Sincerely,



Andrew M. Gaydosh  
Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

Enc. Complaint and Notice of Opportunity for Hearing  
Consolidated Rules of Practice, 40 C.F.R. Part 22  
SBREFA Information Sheet  
EPA Supplemental Environmental Projects Policy

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY 2012 OCT -1 AM 9:45  
REGION 8

Docket No.: CWA-08-2013-0001



IN THE MATTER OF	)	ADMINISTRATIVE COMPLAINT AND
	)	OPPORTUNITY TO REQUEST A HEARING
Gilco Transportation, Inc.	)	
23899 Highway 6	)	
Rifle, CO 81650-8909	)	(Proceeding to Assess Class II
	)	Civil Penalty Under Section 311
_____ Respondent.	)	of the Clean Water Act)

**LEGAL AUTHORITY**

1. This Administrative Complaint is issued to Gilco Transportation, Inc. (Respondent) under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by section 311(b)(6)(B)(ii) of the Clean Water Act (the Act), 33 U.S.C. § 1321(b)(6)(B)(ii), as amended by the Oil Pollution Act of 1990. The Administrator has delegated this authority to the Regional Administrator of EPA, Region 8, who in turn has delegated it to the Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice of EPA, Region 8.

2. Pursuant to section 311(b)(6)(B)(ii) of the Act, 33 U.S.C. § 1321(b)(6)(B)(ii), and in accordance with 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," (Consolidated Rules) codified at 40 CFR Part 22 (Part 22), Complainant hereby provides notice of its proposal that the Administrator assess a civil penalty against Respondent for the discharge of oil into or upon the navigable waters of the United States or adjoining shorelines in a quantity that has been determined may be harmful, in

violation of section 311(b)(3) of the Act, 33 U.S.C. § 1321(b)(3), and notice of Respondent's opportunity to file an Answer to this Complaint and to request a hearing on the proposed penalty assessment.

### **ALLEGATIONS**

3. Respondent is a corporation organized under the laws of Colorado, and authorized to do business in Colorado.

4. Respondent is a "person" within the meaning of sections 311(a)(7) and 502(5) of the Act, 33 U.S.C. §§ 1321(a)(7) and 1362(5).

5. At all times relevant to this Complaint, the Respondent has owned and operated a gasoline station and transportation company (facility), which transports gasoline and diesel, both of which are "oils" as defined at section 311(a)(1) of the Act, 33 U.S.C. § 1321(a)(1), in Rifle, Colorado.

6. Respondent is an "owner and operator" of the facility referenced in the paragraph above, within the meaning of section 311(a)(6)(B) of the Act, 33 U.S.C. § 1321(a)(6)(B).

7. The vehicle owned and operated by Respondent constitutes an "onshore facility" within the meaning of section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10).

8. This facility is a "non-transportation related" onshore facility. 40 CFR § 112.2.

9. Section 311(b)(3) of the Act, 33 U.S.C. § 1321 (b)(3), prohibits the discharge of oil into or upon the navigable waters of the United States or adjoining shorelines in such quantities that have been determined may be harmful to the public health or welfare or environment of the United States.

10. For purposes of sections 311(b)(3) and (b)(4) of the Act, 33 U.S.C. §§ 1321(b)(3) and (b)(4), discharges of oil into or upon the navigable waters or adjoining shorelines of the United States in such quantities that have been determined may be harmful to the public health or welfare or the environment of the United States are defined in 40 CFR § 110.3 to include discharges of oil that violate applicable water quality standards; or cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines; and/or cause a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines.

11. On or before August 27, 2011, Respondent's vehicle discharged approximately 59 barrels (2,465 gallons) of red diesel that ran alongside the roadside ditch into an unnamed tributary of Clear Creek, which is a perennial tributary to the South Platte River, a traditional navigable water of the United States.

12. The unnamed tributary, Clear Creek, and the South Platte River are "navigable waters" of the United States as defined in section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 CFR § 110.1.

13. Respondent's discharge of 59 barrels of oil in a quantity that violated applicable water quality standards, caused a film or sheen upon or discoloration of the surface of the water in the wetlands and adjoining shorelines, and/or caused a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines and has been determined to be harmful to the public health or welfare or environment of the United States.

14. Respondent's release of approximately 59 barrels of oil on August 27, 2011, into navigable waters of the United States constitutes a violation of section 311(b)(3) of the Act, 33 U.S.C. § 1321(b)(3).

### CIVIL PENALTY

15. As alleged in the preceding Paragraph, and pursuant to section 311(b)(6)(B)(ii) of the Act, 33 U.S.C. § 1321(b)(6)(B)(ii), and 40 CFR § 19.4, the Respondent is liable for civil penalties of up to \$16,000 per day for each day during which the violation continues, up to a maximum of \$177,500.

16. Based on the forgoing Allegations, and pursuant to the authority of section 311(b)(6)(B)(ii) of the Act, 33 U.S.C. § 1321(b)(6)(B)(ii), the Complainant proposes that the Administrator, after considering the statutory penalty factors set forth at section 311(b)(8) of the Act, 33 U.S.C. § 1321(b)(8), issue a final order assessing administrative penalties against the Respondent in an amount of twenty five thousand two hundred eighty four dollars (\$25,284).

17. Complainant proposes this penalty amount after considering the applicable statutory penalty factors in § 311(b)(8) of the Act, 33 U.S.C. §1321(b)(8): the seriousness of the violations, the economic benefit to the violator resulting from the violations, the degree of culpability involved, any other penalty for the same incident, any history of prior violations, the nature, extent, and degree of success of any efforts of the violator to minimize or mitigate the effects of the discharge, the economic impact of the penalty on the violator, and any other factors as justice may require.

### TERMS OF PAYMENT FOR QUICK RESOLUTION

18. If Respondent does not contest the findings and penalty proposal set out above, this action may be resolved by paying the proposed penalty in full pursuant to 40 C.F.R. § 22.18. If such payment is made within thirty (30) calendar days of receipt of this Complaint, no Answer need be filed. For more time for payment, Respondent may file a statement agreeing to pay the



penalty within thirty (30) days of receipt of the Complaint, then pay the money within sixty (60) days of such receipt. The payment shall be made by remitting a cashier's or certified check, including the name and docket number of the case, referencing "Oil Spill Liability Trust Fund-311," for the amount, payable to the : "**Environmental Protection Agency,**" to:

**US checks by regular  
US postal service mail:**

US Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
PO Box 979077  
St. Louis, MO 63197-9000

**Federal Express, Airborne,  
Or other commercial carrier:**

U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, MO 63101

**Wire transfers:**

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York NY 10045  
Field Tag 4200 of the Fedwire message should read "D 68010727  
Environmental Protection Agency"

**On Line Payment:**

[WWW.PAY.GOV](http://WWW.PAY.GOV)  
Enter sfo 1.1 in the search field  
Open form and complete required fields.

A copy of the check or wire transfer shall be simultaneously sent to:

Donna K. Inman (8ENF-UFO)  
U.S. EPA Region 8  
1595 Wynkoop Street  
Denver, CO 80202-1129

19. Payment of the penalty in this manner does not relieve Respondent of its obligation to comply with the requirements of the statute and regulations. Payment of the penalty in this manner shall constitute consent by Respondent to the assessment of the proposed penalty and a waiver of Respondent's right to a hearing on this matter.

**OPPORTUNITY TO REQUEST A HEARING**

20. In the Answer to this Complaint Respondent may, pursuant to section 311(b)(6) of the Act, 33 U.S.C. § 1321(b)(6)(B)(ii), and 40 CFR § 22.15(c), request a hearing on any material fact alleged in this Complaint, or on the appropriateness of any penalty it proposes. Even if Respondent does not explicitly request a hearing in the Answer, the Presiding Officer may hold such a hearing if the Answer raises issues appropriate for adjudication. The procedures for any such hearing and for all proceedings in this action are set out in 40 CFR Part 22, a copy of which is enclosed with this Complaint.

21. Default constitutes an admission of all facts alleged in this Complaint and a waiver of Respondent's right to a hearing on such factual allegations. In order to avoid default in this matter, Respondent must, within 30 days after receipt of this Complaint, either (1) settle this matter with the Complainant; or (2) file both an original and one copy of a written Answer to this

Complaint with:

Ms. Tina Artemis, Mail Code 8RC  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop St.  
Denver, Colorado 80202-1129



22. Respondent is also required, pursuant to 40 CFR § 22.5(b) of the enclosed Consolidated Rules of Practice, to provide a contemporaneous copy of any Answer to the Complainant. Complainant's counsel, who is authorized to receive service on behalf of the Complainant, shall be served at the following address:

Brenda L. Morris, Mail Code 8ENF-L  
Legal Enforcement Program  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop St.  
Denver, Colorado 80202-1129

23. Pursuant to 40 CFR § 22.15, the Answer shall clearly and directly admit, deny or explain each of the factual allegations contained in this Complaint with regard to which Respondent has knowledge. If Respondent states in the Answer that it has no knowledge of a particular factual allegation, the allegation shall be deemed denied. Otherwise, Respondent's failure to admit, deny, or explain any material factual allegation contained in this Complaint constitutes an admission of the allegation. The Answer shall also state the circumstances or arguments for any defense Respondent wishes to assert, challenges to any factual allegation in the Complaint, and any basis Respondent may have to oppose the assessment of the penalty in the amount of twenty five thousand two hundred eighty four dollars (\$25,284).

24. Following receipt of the Answer, a Presiding Officer will be assigned. The Presiding Officer will notify the parties of his/her assignment, and shall notify the parties of the time and place of further proceedings in the case.

### **PUBLIC NOTICE**

25. Pursuant to section 311(b)(6)(C) of the Act, 33 U.S.C. § 1321(b)(6)(C), the Complainant is providing public notice of and reasonable opportunity to comment on this proposed issuance of a final order assessing administrative penalties against Respondent. If a hearing is held on this matter, members of the public who submitted timely comments on this proceeding have the right under section 311(b)(6)(C) of the Act to be heard and present evidence at the hearing. A copy of the public notice is attached to this Complaint.

### **SETTLEMENT**

26. The EPA encourages settlement of a proceeding at any time if the settlement is consistent with the provisions and objectives of the Act and applicable regulations and is willing to explore this possibility in an informal settlement conference. If Respondent or its attorney, if it chooses to be represented by one, have any questions or wish to have an informal settlement conference with EPA, please contact attorney Brenda Morris at the telephone number listed below. Please note that a request for, scheduling of, or participation in a settlement conference does not extend the period for filing an answer and request for hearing as set out above. The settlement process, however, may be pursued simultaneously with the administrative litigation procedures found in the Consolidated Rules. If a settlement can be reached, its terms must be expressed in a written consent agreement, signed by the parties and incorporated into a final order signed by the Regional Judicial Officer.

27. If Respondent has any questions concerning this Administrative Complaint or wishes to arrange for an informal conference, please contact Brenda Morris at 303-312-6891 or via email at [morris.brenda@epa.gov](mailto:morris.brenda@epa.gov).

**UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8**  
Complainant.

Date: October 1, 2012

By: 

Andrew M. Gaydosh  
Assistant Regional Administrator  
Office of Enforcement, Compliance and  
Environmental Justice

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and one true and correct copy of the COMPLAINT AND NOTICE OF OPPORTUNITY FOR HEARING with all Attachments was hand-carried to the Regional Hearing Clerk:

Tina Artemis, Region 8 Hearing Clerk  
U.S. Environmental Protection Agency  
1595 Wynkoop Street  
Denver, Colorado 80202-1129

And that a true copy of the same was sent via CERTIFIED MAIL/RETURN RECEIPT REQUESTED to

Travis H. Perry, Registered Agent  
300 Main Street, Suite 202  
Grand Junction, CO 81501

10/1/2012  
Date

Judith McTernan  
Judith McTernan

## §21.13

approve or disapprove the State issued statement, in accordance with the requirements of §21.5.

(2) The Regional Administrator will periodically review State program performance. In the event of State program deficiencies the Regional Administrator will notify the State of such deficiencies.

(3) During that period that any State's program is classified as deficient, statements issued by a State shall also be sent to the Regional Administrator for review. The Regional Administrator shall notify the State, the applicant, and the SBA of any determination subsequently made, in accordance with §21.5, on any such statement.

(i) If within 60 days after notice of such deficiencies has been provided, the State has not taken corrective efforts, and if the deficiencies significantly affect the conduct of the program, the Regional Administrator, after sufficient notice has been provided to the Regional Director of SBA, shall withdraw the approval of the State program.

(ii) Any State whose program is withdrawn and whose deficiencies have been corrected may later reapply as provided in §21.12(a).

(g) Funds appropriated under section 106 of the Act may be utilized by a State agency authorized to receive such funds in conducting this program.

### §21.13 Effect of certification upon authority to enforce applicable standards.

The certification by EPA or a State for SBA Loan purposes in no way constitutes a determination by EPA or the State that the facilities certified (a) will be constructed within the time specified by an applicable standard or (b) will be constructed and installed in accordance with the plans and specifications submitted in the application, will be operated and maintained properly, or will be applied to process wastes which are the same as described in the application. The certification in no way constitutes a waiver by EPA or a State of its authority to take appropriate enforcement action against the owner or operator of such facilities for violations of an applicable standard.

## PART 22—CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES AND THE REVOCATION/TERMINATION OR SUSPENSION 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 Environmental Appeals Board, Regional Judicial Officer and Presiding Officer; disqualification, 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; alternative dispute resolution.
- 22.19 Prehearing information exchange; prehearing conference; other discovery.
- 22.20 Accelerated decision; decision to dismiss.

### 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 persuasion; 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](http://www.smallbiz-enviroweb.org)

Small Business Gateway - [www.epa.gov/smallbusiness](http://www.epa.gov/smallbusiness)

EPA's Small Business Ombudsman - [www.epa.gov/sbo](http://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](http://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/](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) or 1-734-995-4911

#### 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)

#### Metal Finishing

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

#### Paints and Coatings

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

#### Printed Wiring Board Manufacturing

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

#### Printing

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

#### Ports

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

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

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

#### Hotlines, Helplines and Clearinghouses

[www.epa.gov/epahome/hotline.htm](http://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](mailto:info-antimicrobial@epa.gov) or  
1-703-308-6411

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

[www.epa.gov/ttn/catc](http://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](http://www.epa.gov/otaq/imports) or  
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  
[www.nrc.uscg.mil](http://www.nrc.uscg.mil) or 1-800-424-8802

#### Pollution Prevention Information Clearinghouse (PPIC)

[www.epa.gov/opptintr/ppic](http://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](http://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](http://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.*