

From: [Cool, Richard](#)
To: chilltransportation1@gmail.com
Cc: [Johnson, Patrick](#); [Franklin, Richard](#)
Subject: Notice of Intent to File Administrative Complaint for Violation of the Clean Water Act and Opportunity to Confer Prior to Filing
Date: Tuesday, March 15, 2022 10:37:06 AM
Attachments: [image003.png](#)

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Ms. Sonia I. Slayden
President
Chill Transportation, LLC
2112 Berkeley Ave, Apt. 6
Los Angeles, California 90026
chilltransportation1@gmail.com

Dear Ms. Slayden:

The U.S. Environmental Protection Agency (EPA) documented violations of the Clean Water Act (CWA) related to Chill Transportation LLC's (Chill) ownership and operation of a truck tractor and refrigerated trailer that crashed and caused an oil spill on August 8, 2021, as the Chill tractor/trailer was traveling north-bound on State Route 97, about 4 miles south of the City of Toppenish, Washington. The accident occurred at approximately Mile Post 57 on and near a bridge over Toppenish Creek and within the Toppenish National Wildlife Refuge. The Chill truck accident resulted in the release of oil (e.g., diesel fuel, etc.) to Toppenish Creek, wetlands adjacent to the creek and creek shorelines that included areas of highway ballast.

EPA alleges violations of the following CWA provisions regarding this oil spill/discharge incident:

- Chill's discharge of oil into and upon waters of the United States and adjoining shorelines in a quantity that may be harmful as determined by 40 C.F.R. § 110.3, in violation of Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3); and
- Chill's discharge of a pollutant from a point source to the waters of the United States without a National Pollutant Discharge Elimination System permit in violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

Additionally, Chill failed to immediately notify the National Response Center of this discharge of oil to waters of the United States, as required by 40 C.F.R. § 110.6 and Section 311(b)(5) of the CWA, 33 U.S.C. § 1321(b)(5).

The purpose of this notice is to inform you that EPA is prepared to initiate an enforcement action for these CWA violations and to offer you the opportunity to discuss this matter with EPA prior to the filing of a Complaint.

Section 311(b) of the CWA, 33 U.S.C. § 1321(b), and 40 C.F.R. Part 19 authorize EPA to seek penalties for violations of the CWA up to \$48,762 per day of violation or \$1,951 per barrel of oil discharged. Additionally, Section 309 of the CWA authorizes EPA to issue administrative orders requiring specific measures be taken to ensure compliance with the CWA.

In general, EPA favors pre-filing discussions, which help ensure that we have all relevant information and may lead to resolution that avoids the time and expense of litigation. If we can reach a settlement, we would resolve the case with an administrative Consent Agreement and a Final Order, and EPA would not file a Complaint. Once a Consent Agreement and a Final Order is signed by all parties, EPA typically issues a press release announcing the settlement.

Before responding to this notice, EPA encourages you to review documents that are pertinent to EPA's enforcement action and may benefit any settlement discussions:

1. EPA's [Small Business Resources Information Sheet](#) provides information on potential compliance assistance opportunities that are available to you.
2. EPA's *Civil Penalty Policy for Section 311(b)(3) and Section 311(j) of the Clean Water Act* for guidance on appropriate penalties in settlement of Section 311 civil administrative and judicial actions at <http://www2.epa.gov/enforcement/civil-penalty-policy-section-311b3-and-section-311j-clean-water-act-cwa-august-1998>.

EPA is coordinating with the Washington State Department of Ecology (Ecology) regarding this oil spill incident. Any potential resolution between Chill and Ecology related to this oil spill incident would be factored into EPA's civil administrative settlement considerations. For example, if Chill paid a civil penalty to Ecology for alleged state law-based violations that originated from the same oil spill incident, EPA would consider reducing its final civil administrative penalty, as may be appropriate, taking into account the similarities and differences between the CWA and Ecology's relevant enforcement authorities. If you have any questions for Ecology, please contact Tami Neilson, Ecology Spill Enforcement Coordinator, at (360) 701-4379 .

EPA generally provides a period of 90 days to reach settlement before considering more formal enforcement options. To reach a timely settlement within 90 days, pre-filing negotiations should begin within 30 days

Please contact Patrick Johnson in the Office of Regional Counsel at (907) 271-3914 within 14 days of this notice to schedule a time to begin negotiations.

I would appreciate it if you would reply to this email to confirm its receipt.

Thank you for your prompt attention to this important matter.

Sincerely,

Rick Cool
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