

ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, DC

IN RE.

SILKY ASSOCIATES LLC

RCRAC 9006) APPEAL No. 01-02

DOCKET NO. RCAA-03-298-013

INSTRUCTIONS TO AVOID PENALTY

I have received letter from EPA under the heading
Instructions

① Correct - all violations and situations cited Part 1 of the
Amended NIPD ~~and~~

And it also give warning that
Failure to resolve what will happen and
next paragraph shows. if not okay under section
9012 RCRA Subject to Civil Penalty

But I have resolve all the
violation under given time without any fail.
So I do not understand how I am guilty of
these violation, How Melissa Toffel charge me
and as per Title 9 also I have not voided any
of these violation.

"Attach" is that Instructions Paper.

ATTACHED with this letter
INSTRUCTIONS

On the reverse side is an Amended Underground Storage Tank ("UST") Notice of Intent to Prohibit Deliveries ("Amended NIPD"). You (the Owner or Operator) can resolve all of the violations identified in Part I of the Amended NIPD, request to meet with EPA, or do both. If you do neither, your USTs may be prohibited from receiving deliveries of regulated substances.

Certification: If you, the owner and operator, wish to avoid delivery prohibition, you must do the following before the date specified at the bottom of Part I of this Amended NIPD:

1. Correct all violations and situations cited in Part I of the Amended NIPD ("Part I");
2. Sign the Certification in Part II of the Amended NIPD ("Part II") (or in the case when an owner or operator is a corporate entity, have an authorized representative sign it);
3. Return the Amended NIPD along with documentation that you have corrected all of the violations and situations identified in Part I to the following address: **Melissa Toffel, U.S. EPA Region III, RCRA Underground Storage Tank Branch (Mail Code 3LC31), 1650 Arch Street, Philadelphia PA 19103.**

Request for meeting: If you wish to discuss with EPA the planned prohibition of deliveries to your USTs, you may request a meeting with EPA. If requested, EPA will hold the meeting within ten (10) business days of the date of receipt of your meeting request. A request for a meeting by the owner or operator does not suspend or delay the deadline by which an owner or operator must correct any violations or situations. To request a meeting, you, the owner or operator must contact Melissa Toffel by phone at (215) 814-2060 or via e-mail at toffel.melissa@epa.gov to make arrangements. If you are represented by counsel, please have your attorney call Jennifer Abramson by phone at (215) 814-2066 or via e-mail at abramson.jennifer@epa.gov. The purpose and scope of any meeting is limited to issues involving EPA's planned prohibition of deliveries to the USTs identified in this Amended NIPD. The meeting is not an evidentiary hearing under 40 CFR Part 22. However, you may present information, arguments, and comments to EPA regarding its intention to prohibit delivery. You, your attorney, or other representative (such as an environmental consultant) may participate in the meeting in person, via telephone, or via video conference; however, an attorney or other representative is not required to participate.

Failure to resolve the situations and violations identified in Part I within thirty (30) calendar days may result in EPA's determination that your USTs are ineligible to receive regulated substances. Should EPA make such a determination, deliveries will be prohibited in accordance with Section 9012 of RCRA, 42 U.S.C. § 6991k, and you will be provided with notice of the ineligibility determination either in writing or by virtue of a tag being affixed on or near the fill pipe for the USTs, or both.

In addition, Section 9006(d)(2)(E) of RCRA, 42 U.S.C. § 6991e(d)(2)(E), provides that any owner or operator of an UST – and any person making or accepting a delivery or deposit of a regulated substance to an ineligible UST – who fails to comply with the delivery prohibition requirement established by Section 9012 of RCRA shall be subject to a civil penalty not to exceed \$10,000 for each tank for each day of violation. Pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, that amount may be adjusted for inflation. For violations occurring after November 2, 2015 and assessed on or after January 15, 2018, EPA may assess penalties of up to \$23,426 for each tank for each day of violation. Because fuel deliverers may be subject to penalties, at the time any USTs at your facility are deemed to be ineligible for deliveries, EPA may also provide notification to your fuel deliverers of the ineligibility of your USTs to receive deliveries.

EPA Review: Once EPA has received a signed certification by you that the violations set forth in the Amended NIPD have been resolved, EPA will review it and all documentation submitted by you. If EPA agrees that you have corrected all of the violations, EPA will provide written notice to you specifying that deliveries will not be prohibited at the USTs.

If you have any questions, please contact Melissa Toffel by phone at (215) 814-2060, or via email at toffel.melissa@epa.gov. If you are represented by counsel, your attorney may contact Jennifer Abramson by phone at (215) 814-2066, or via email at abramson.jennifer@epa.gov.