

U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA), REGION 8
1595 Wynkoop Street, Denver, Colorado 80202-1129
UNDERGROUND STORAGE TANK (UST) NOTICE OF INTENT TO PROHIBIT DELIVERIES NO. RCRA-08-2023-0006

PART I: REASONS FOR POTENTIAL DELIVERY PROHIBITION

On: 11/14/2022 Time: 8:00 a.m.
(date of inspection) (AM or PM)

At: Suds N Grub (4060003)
(facility name and identification number)

Address: 32908 Iron Nation Road
Lower Brule, South Dakota 57548

No Facility representative present at inspection

(name of on-site representative if not the owner or operator)

UST Identifying Information:

Tank no.: _____ Capacity: _____

Product stored: _____

Other identifying information: See Notes
(if multiple USTs, attach identifying information or use multiple notices)

Name and address of the UST owner or operator

Name: Jacob Brouse

Address: 32908 Iron Nation Road

Lower Brule, South Dakota

57548

A duly designated officer, employee, or representative of EPA, or a duly designated officer or employee or representative of the state or tribe, inspected or assessed this facility. EPA has identified the following situation(s) or violation(s) of the UST regulations promulgated or approved by EPA under subtitle I of the Solid Waste Disposal Act, as amended (SWDA) (42 U.S.C. § 6991 et seq.).

1. 40 C.F.R. § 280.31(a) Failure to operate and maintain the corrosion protection system continuously
2. 40 C.F.R. §280.70(b) Failure to comply with the temporary closure requirements for a tank system for three or more months
- 3.

Based on the information identified above, EPA finds the UST(s) identified in this notice subject to delivery prohibition, in accordance with § 9012 of SWDA (42 U.S.C. § 6991k), if the situation(s) and violation(s) are not corrected within 30 calendar days of the date of this notice, which is **no later than:**

MARTA GRABOWSKI Digitally signed by MARTA GRABOWSKI
Date: 2023.04.19 13:58:18 -06'00' Date: _____

(Signature of EPA Representative)

PART II: RESOLUTION OF REASONS FOR POTENTIAL DELIVERY PROHIBITION

A. Certification: The owner or operator certifies, subject to civil and criminal penalties for making a false submission to the U. S. Government, that he or she has corrected all situation(s) and violation(s) identified in Part I and is submitting true and accurate documentation to EPA of their resolution.

SIGNATURE BY OWNER, OPERATOR, OR AUTHORIZED REPRESENTATIVE:

Name (print): _____

Title: _____

Company name: _____

Signature: _____ Date: 11/14/2022

B. Request for meeting with EPA (optional): You may request a meeting with EPA to discuss the planned prohibition of deliveries to your UST identified in Part I. If requested, EPA will hold the meeting by telephone or video conference within ten business days of the date of your meeting request. If you desire to meet with EPA please contact, or have your representative contact, the contact listed below to make arrangements. A request for a meeting by the owner or operator does not suspend or delay the date by which you must correct all of the situation(s) and violation(s) to avoid delivery prohibition.

Notes:

This delivery prohibition applies to the entire Facility, given the following circumstances:

- Facility is in temporary closure; all tanks were unlocked and contained liquid
- Inconsistent tank identification across sources and years
- Lapse in CP testing between 2013 and 2021; all tanks showed less negative voltage from 2013 to 2021
- East tank showed voltages less negative than 850mV on 2021 CP test report

Tank information (from 2022 inspection):

- Two tanks have ~8,000 gallon capacity and one tank has ~2,000 gallon capacity
- West tank was physically labeled "diesel"
- Center tank physical label was not observed
- East tank was physically labeled regular unleaded

6/12/2023

10:44 AM

Received by
EPA Region VIII
Hearing Clerk

INSTRUCTIONS

The first page is an Underground Storage Tank (UST) Notice of Intent to Prohibit Deliveries (NIPD). You (the Owner or Operator) can resolve all of the situation(s) and violation(s) identified in Part I of the NIPD, request to meet with EPA, or do both. If you do neither, your UST(s) may be prohibited from receiving deliveries of regulated substances.

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

1. Correct all violation(s) and situation(s) cited in Part I of the NIPD ("Part I");
2. Sign the Certification in Part II of the 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 NIPD along with documentation that you have corrected all of the violation(s) and situation(s) identified in Part I to the following address: *Roberta Person, EPA Region 8 MC: ENF-RO-RO, 1595 Wynkoop Street, Denver, CO 80202-1129*

Request for meeting: If you wish to discuss with EPA the planned prohibition of deliveries to your UST, you may request a meeting with EPA. If requested, EPA will hold the meeting within ten business days of the date of its 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, or have your representative contact, Roberta Person at person.roberta@epa.gov or 303-312-6910, to make arrangements.

The purpose and scope of any meeting is limited to issues involving EPA's planned prohibition of deliveries to the UST identified in this NIPD. The meeting is not an evidentiary hearing under 40 CFR part 22. However, you may present information, arguments, and comments to EPA regarding our 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 situation(s) and violation(s) identified in Part I within 30 days may result in EPA's determination that your UST is ineligible to receive regulated substances. Should EPA make such a determination, deliveries will be prohibited in accordance with § 9012 of SWDA (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 UST(s), or both.

In addition, section 9006(d)(2)(E) of SWDA (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 § 9012 of SWDA shall be subject to a civil penalty not to exceed \$10,000 for each tank for each day of violation. Pursuant to the federal law, that amount may be adjusted for inflation. For violations occurring after January 12, 2022, EPA may assess penalties of up to \$26,269 for each tank for each day of violation. Because fuel deliverers may be subject to penalties, at the time any UST at your facility is deemed to be ineligible for deliveries, EPA may also provide notification to your fuel deliverers of the ineligibility of your UST to receive deliveries.

EPA Review: Once EPA has received the NIPD containing a signed certification by the owner or operator that the situations/violations have been resolved, EPA will review it and any documentation submitted by the owner or operator. If EPA agrees that the owner or operator corrected all of the situation(s) and violation(s), EPA will provide written notice to you specifying that deliveries will not be prohibited at the UST(s).

If you have any questions, please contact Roberta Person at person.roberta@epa.gov or 303-312-6910.