

Jeb Bush
Governor

Department of Environmental Protection

Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Colleen M. Castille
Secretary

July 7, 2004

Certified Mail

Return Receipt Requested: 7001 0320 0001 7977 0338

Mr. Ron H. Noble
Fowler White Boggs Banker
Attorney At Law
501 East Kennedy Blvd., Suite 1700
Tampa, Florida 33602

RE: Amended Order approving of APT model numbers P-075-SC, P-100-SC, P-150-SC, P-175-SC, P-200-SC, and P-250-SC piping systems, File No. EQ-569

Dear Mr. Noble:

This Order amends the previous Equipment Approval EQ-569 issued on January 5, 2004 that approved the use of the APT model numbers P-075-SC, P-100-SC, P-150-SC, P-175-SC, P-200-SC, and P-250-SC piping systems for the small diameter piping with secondary containment that is in contact with the soil. Based on the information submitted to the Department of Environmental Protection (Department) on May 26, 2004, the Department finds that only condition (a) of the Order is revoked and replaced with the following:

- a) On properties with existing contamination as defined in Rule 62-761.200(28), Florida Administrative Code (F.A.C.), (1998) or 62-770.200(5), F.A.C., (1999), The Advanced Polymer Technology, Inc. (APT) shall;
- 1) Install the approved double-walled piping in a piping chase four inches in diameter made out of HDPE piping component;
 - 2) The piping chase shall be sealed at each piping sump and dispenser liner. The certified APT installer shall demonstrate that the seals are tight by performing and passing tightness test (pursuant to manufacturer's instructions) on the seal between each piping chase, tank sump and dispenser sump;
 - 3) The piping system and piping chase shall be sloped from the dispenser sump back toward the tank sump to allow gravity flow of any release of the primary piping into the tank sump;

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Mr. Ron H. Noble
July 7, 2004
Page Two

- 4) The piping sump and piping chase shall be monitored in accordance with Department Rule 62-761.640, F.A.C.;
 - 5) The piping chase shall be pressure tested for tightness upon installation (pursuant to manufacturer's instructions) and must pass this test and pass the pressure test every year thereafter; and
 - 6) The conditions of the Order b through e shall remain in effect that are:
- b) The piping system shall not be used as aboveground piping connected to aboveground or underground storage tank systems;
 - c) The piping system shall be tested annually for breach of integrity in accordance with Rule 62-761.640(3)2., F.A.C., unless the piping system is placed under a Department approved continuous system (vacuum, pressure or brine solution). Additionally, all exposed portions of the piping system must be annually inspected by the owner/operator or their designee;
 - d) Advanced Polymer Technology, Inc., shall also ensure that owners and operators who purchase or install any of the above referenced piping systems are informed that the polyethylene material that comprises the outer wall of the inner carrier pipe should not come into contact with petroleum or petroleum products because polyethylene does not maintain its original design characteristics when immersed in petroleum or when exposed to petroleum vapors for extended periods of time. The notice to owners and operators who purchase or install the referenced piping systems shall be accomplished, at minimum by providing a copy of this Order to the owner or operator prior to purchase or installation; and
 - e) This Order will be valid and effective for only five years from the date of this Order as indicated on the first page of this Order.

Please be advised that the above referenced DEP rules are subject to change. If the above rule standards are modified in the future or there are substantial design changes to this product, this Order may be modified or rescinded for future upgrades and installations. Additionally, if the product(s) shows a consistent pattern of failure(s), and therefore does not provide substantially equivalent environmental protection, the Department may rescind this Order.

Mr. Ron H. Noble
July 7, 2004
Page Three

The Department's Order shall become final unless a timely petition for an administrative hearing is filed under sections 120.569 and 120.57, Florida Statutes ("F.S."), within 21 days of receipt of this Order. Persons who have filed such a petition may seek to mediate the dispute, and choosing mediation will not adversely affect the right to a hearing if mediation does not result in a settlement. The procedures for petitioning for a hearing and pursuing mediation are set forth below.

Persons affected by this Order have the following options:

If you choose to accept the above decision by the Department about equipment approval, you do not have to do anything. This Order is final and effective as of the date on the top of the first page of this Order.

If you choose to challenge the decision, you may do one of the following:

1. File a petition for administrative hearing with the Department's Agency Clerk in the Office of General Counsel within 21 days of receipt of this Order;

OR

2. File a request for an extension of time to file a petition for hearing with the Department's Agency Clerk in the Office of General Counsel within 21 days of receipt of this Order; such a request should be made if you wish to meet with the Department in an attempt to resolve any disputes without first filing a petition for hearing or negotiate an agreement to mediate.

OR

3. In addition to requesting an administrative hearing, any petitioner may elect to pursue mediation under section 120.573, F.S., and must negotiate an agreement to mediate within 10 days after the deadline for filing a petition.

How to Request an Extension of Time to File a Petition for Hearing

For good cause shown, pursuant to Rule 62-110.106(4), Florida Administrative Code ("F.A.C."), the Department may grant a request for an extension of time to file a petition for hearing. Such a request must be filed (received) with the

Mr. Ron H. Noble
July 7, 2004
Page Four

Agency Clerk in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida, 32399-3000, within 21 days of receipt of this Order. Petitioner, if different from the applicant, shall mail a copy of the request to the applicant at the time of filing. Timely filing a request for an extension of time tolls the time period within which a petition for administrative hearing must be made.

How to File a Petition for Administrative Hearing

A person whose substantial interests are affected by this Order may petition for an administrative proceeding (hearing) under sections 120.569 and 120.57, F.S. The petition must contain the information set forth below and must be filed (received) by the Department's Agency Clerk in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, MS 35, Tallahassee, Florida, 32399-3000, within 21 days of receipt of this Order. Petitioner, if different from the applicant, shall mail a copy of the petition to the applicant, at the time of filing. Failure to file a petition within this time period shall waive the right of anyone who may request an administrative hearing under sections 120.569 and 120.57, F.S.

Pursuant to subsections 120.54(5)(b)4 and 120.569(2), F.S. and rule 28-106.201, F.A.C., a petition for administrative hearing shall contain the following information:

- a) The name, address, and telephone number of each petitioner, the name, address, and telephone number of the petitioner's representative, if any, the name, address of the applicant if different from petitioner;
- b) A statement of how and when each petitioner received notice of the Department's action or proposed action;
- c) An explanation of how each petitioner's substantial interests are or will be affected by the Department's action or proposed action;
- d) A statement of the material facts disputed by the petitioner, or a statement that there are no disputed facts;
- e) A statement of the ultimate facts alleged, including a statement of the specific facts the petitioner contends warrant reversal or modification of the Department's action or proposed action;
- f) A statement of the specific rules or statutes the petitioner contends requires reversal or modification of the Department's action or proposed action; and

- g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Department's action or proposed action.

How to Pursue Mediation

In addition to requesting an administrative hearing, any petitioner may elect to pursue mediation. The election may be accomplished by filing with the Department a mediation agreement with all parties to the proceeding (i.e., the applicant, the Department, and any person who has filed a timely and sufficient petition for hearing). The agreement must contain all the information required by rule 28-106.404, F.A.C. The agreement, signed by all parties, must be received by the Department's Agency Clerk in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida, 32399-3000 within 10 days after the deadline for filing a petition, as set forth above. Choosing mediation will not adversely affect the right to a hearing if mediation does not result in a settlement.

Pursuant to rule 28-106.404, F.A.C., an agreement to mediate must include the following:

- (i) The name, address, and telephone number of the persons who may attend the mediation (also the DEP file number, and the name and address of the applicant);
- (ii) The name, address, and telephone number of the mediator agreed to by the parties;
- (iii) How the costs and fees associated with the mediation will be allocated (the Bureau of Petroleum Storage Systems will not pay any of the costs of mediation);
- (iv) The agreement of the parties regarding the confidentiality of discussions and documents introduced during mediation to the extent authorized by law;
- (v) The date, time, and place of the first mediation session;
- (vi) The name of the party's representative who shall have authority to settle or recommend settlement; and
- (vii) The signature of the parties.

As provided in section 120.573, F.S., the timely agreement of all parties to mediate will toll the time limitations imposed by sections 120.569 and 120.57, F.S., for holding an administrative hearing and issuing a final order. Unless otherwise agreed by the parties, the mediation must be concluded

Mr. Ron H. Noble
July 7, 2004
Page Six

within sixty days of the execution of the agreement. If mediation results in settlement of the administrative dispute, the Department must enter a final order incorporating the agreement of the parties. Persons seeking to protect their substantial interests that would be affected by such a modified final decision must file their petitions within 21 days of receipt of this notice, or they shall be deemed to have waived their right to a proceeding under sections 120.569 and 120.57, F.S. If mediation terminates without settlement of the dispute, the Department shall notify all parties in writing that the administrative hearing processes under sections 120.569 and 120.57, F.S., are resumed.

This Order is final and effective as of the date on the top of the first page of this Order. Timely filing a petition for administrative hearing postpones the date this Order takes effect until the Department issues either a final order pursuant to an administrative hearing or mediation settlement.

Judicial Review

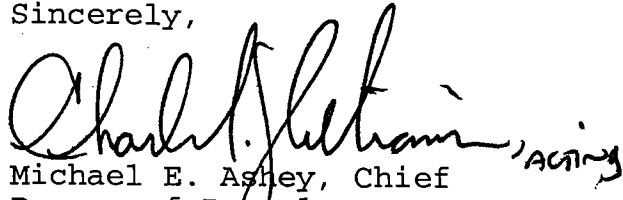
Any party to this Order has the right to seek judicial review of it under section 120.68, F.S., by filing a notice of appeal under rule 9.110 of the Florida Rules of Appellate Procedure with the Agency Clerk of the Department in the Office of General Counsel, Mail Station 35, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within thirty days after this order is filed with the clerk of the Department (see below).

Mr. Ron H. Noble
July 7, 2004
Page Seven

Questions

Any questions regarding the Department's review of your equipment approval should be directed to Farid Moghadam at (850)245-8848. Questions regarding legal issues should be referred to the Department's Office of General Counsel at (850)245-2242. Contact with any of the above does not constitute a petition for administrative hearing (or time extension) or agreement to mediate.

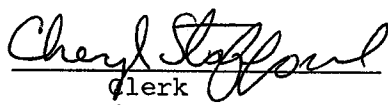
Sincerely,


Michael E. Ashley, Chief, ^{Acting}
Bureau of Petroleum Storage Systems

MEA/fm

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to §120.52
Florida Statutes, with the designated
Department Clerk, receipt of which is
hereby acknowledged.

 7/6/04
Clerk Date
(or Deputy Clerk)