



The State of New Hampshire  
**Department of Environmental Services**



Thomas S. Burack, Commissioner

May 3, 2016

**BY CERTIFIED MAIL # 7012 0470 0001 6069 3134**

**BY EMAIL AT: [GKAHLON11@GMAIL.COM](mailto:GKAHLON11@GMAIL.COM)**

Kushal Kallon  
PO Box 476  
Chocorua, NH 03817

**NOTICE OF  
INTENT TO RED TAG  
IRT #16-042**

**LETTER OF DEFICIENCY  
WMD LOD #16-052**

**Subject Site/Facility:** Tamworth – G3 Fancy Food & Gas, 9 White Mountain Highway  
DES Site #199110092, UST Facility #0112688

**Reference:** Intent to Red Tag #16-042  
Letter of Deficiency WMD LOD #16-052

Dear Mr. Kallon:

**This letter contains important information that affects the continued operation of the subject site/facility. Specifically:**

**DES will red-tag the non-compliant UST system(s) if deficiencies #1, #2, #3, #4, #5 and #6 are not corrected within 10 days of the date of the letter or, if specific interim steps to reduce the risk of a release of regulated substance to the environment are not completed within 10 days of the date of the letter or within the specified timeline below; and**

**Because the facility is not in compliance with RSA 146-C, you currently are not eligible for reimbursement of cleanup costs incurred should a spill or release occur at your facility.**

DES conducts compliance inspections and file reviews of underground storage tank (“UST”) facilities to determine the facility’s compliance with N.H. RSA 146-C, Underground Storage Tank Facilities, and the N.H. Code of Admin. Rules Env-Or 400, Underground Storage Tank Facilities (“UST Rules”). Our inspections and review indicate that double-walled UST(s) with pressurized piping and gravity piping that is not secondarily contained and/or monitored to grade at the dispensers exists at the subject site and that DES has not received information that the pressurized piping and gravity piping at the subject site has been permanently closed in accordance with the requirements of Env-Or 408.05(c) or that dispenser sumps have been installed in accordance with Env-Or 407.

In addition, on February 29, 2016, DES staff conducted a compliance inspection of the subject UST facility at the subject site (February Inspection). By inspection report dated February 29, 2016, DES provided you with a list of the deficiencies that were discovered, and informed you that the deficiencies should be corrected within 30 days and verification should be submitted to DES within 45 days. Furthermore, a file review indicates that certain periodic testing and reporting requirements have not been accomplished. Therefore, pursuant to RSA 146-C:15, DES hereby notifies you of its **intent to red-tag** the non-compliant UST systems if **deficiencies**

**#1, #2, #3, #4, #5 and #6** as listed below are not corrected **within 10 days** of the date of this letter or **if specific interim steps for deficiency #1 to reduce the risk of a release of regulated substance to the environment are not completed within 10 days of the date of the letter or within the specified timeline below**. This letter also serves as a Letter of Deficiency regarding those deficiencies and deficiencies #7 through #10, as listed beginning on page 4.

RSA 146-C:14, Delivery Prohibition, prohibits any person from delivering or causing the delivery of oil to a non-compliant UST that has been red-tagged, and prohibits the owner or operator of a facility from depositing or allowing the deposit of oil into a UST that has a red tag affixed to the tank or facility's fill pipe.

The deficiencies for all tanks are listed below.

**Deficiency #1: Failure to permanently close existing single-walled system(s) or system component(s) by December 22, 2015.**

DES has determined that tank #5A, 10,000-gallon regular gasoline UST; tank #5B, 6,000-gallon premium gasoline UST; tank #5C, 4,000-gallon diesel UST; and tank #6, 2,000-gallon kerosene UST do not include dispenser sumps at the subject site and the pressurized piping and gravity piping has not been permanently closed in accordance with the requirements of Env-Or 408.06 through Env-Or 408.10. Env-Or 408.05(c) states "with the exception of vent piping, any part of an existing single wall UST system that routinely contains regulated substance without secondary containment and leak monitoring shall be permanently closed by December 22, 2015." To correct this deficiency, install dispenser sumps for tanks #5A, #5B, #5C, and #6 in accordance with Env-Or 407 or permanently close the existing pressurized and gravity piping system(s) at the subject site in accordance with Env-Or 408.06 through Env-Or 408.10 and temporarily close tanks #5A, #5B, and #5C in accordance with Env-Or 408.04(a through d, and h).

**Deficiency #2: Failure to investigate the source of liquid, determine if a release occurred and submit a written report to DES within seven days.**

During the February Inspection, the DES inspector determined that tank #5C had liquid in the interstitial space. Env-Or 406.10(c) requires the owner to investigate the cause of any unusual operating condition within 24 hours of becoming aware of the condition, implement measures to prevent or minimize a release, eliminate the release or otherwise correct the deficiency, and submit a written report to DES within seven days that describes the investigation and its conclusions. To correct this deficiency, investigate the source of the liquid determine if a release of regulated substance has occurred, conduct a tightness test, and submit a written report to DES within seven days.

**Deficiency #3: Failure to maintain spill containment device in good working order.**

During the February Inspection, the DES inspector determined the spill containment device for tank #5C was not maintained in good working order. Env-Or 405.05(c)((1) requires all spill containment equipment have a liquid capacity of 5 gallons or more. Env-Or 406.06(b) requires spill containment equipment be maintained: free of liquid and debris; in good working order to perform its original design function; and liquid tight. To correct this deficiency, replace, repair or clean the spill containment device(s) to enable the device(s) to collect and hold a minimum 5-gallon spill during product delivery and submit spill containment maintenance results.

**Deficiency #4: Failure to provide overfill protection installation or maintenance results.**

During the February Inspection and based on a subsequent review of DES records, overfill protection devices for tank #5B was not maintained in good working order. Env-Or 405.06 of the UST Rules requires overfill protection devices be installed and maintained in good working order on all UST systems. To correct this deficiency, submit overfill protection installation or maintenance results to DES.

**Deficiency #5: Failure to remove liquid from sump and determine cause of liquid accumulation.**

During the February Inspection, the DES inspector determined that there was liquid or evidence of liquid accumulating in the sump of tank #5A. Env-Or 406.08(a)(2) requires the UST system owner maintain the interstitial space or annular space for both tanks and piping free of debris and water. To correct this deficiency, remove the liquid from the sump, determine the cause of liquid accumulation, repair the sump, test for tightness, and submit a report to DES of maintenance results, or notify DES that this tank system is empty of all product and is temporarily closed by submitting an amended UST registration form.

**Deficiency #6: Failure to provide overfill protection installation.**

During the February Inspection, the DES inspector determined that the overfill protection device for tank #5A was not installed at the required 90% alert or 95% shut off level. Env-Or 405.06(c) of the UST Rules require the primary overfill protection device alert the transfer operator when the tank is no more than 90 percent full or automatically and completely shut off flow into the tank when the tank is no more than 95 percent full. To correct this deficiency, submit documentation that shows overfill protection (including measurements) was installed at the 90 percent alert or the 95 percent shut off level.

**DES will red-tag the non-compliant UST system(s) if deficiencies #1, #2, #3, #4, #5 and #6 are not corrected within 10 days of the date of this letter or, as noted above, if specific interim steps for deficiency #1 to reduce the risk of a release of regulated substance to the environment are not completed within 10 days of the date of the letter or within the specified timeline below.**

The specific interim steps, as identified in Env-Or 408.04(a, b, and d) are as follows:

- 1) remove all regulated substances from the system so that no more than one inch of residue remains in the tank;
- 2) equip each opening or access point, such as fill risers, with a lock to secure against unauthorized use or tampering;
- 3) handle and dispose of all removed substances in accordance with applicable local, state, and federal requirements; and
- 4) submit an amended registration form to DES to report the change in operational status to temporary closure in accordance with Env-Or 404.01.

If the above described interim steps are taken **within 10 days** of the date of this letter for tanks #5A and #5B any by **May 31, 2016** for tank #5C, deficiency #1 will still remain outstanding. However, DES believes you can achieve full compliance with Env-Or 408.05(c) by **November 30, 2016** by installing dispenser sumps in accordance with Env-Or 407 or by taking the following actions:

- 1) submit a UST closure notification form for the pressurized piping associated with tanks #5A, #5B, and #5C and the gravity piping for tank #6 to DES by **October 1, 2016**;
- 2) permanently close the non-compliant pressurized piping associated with tanks #5A, #5B, and #5C and the gravity piping for tank #6 in accordance with Env-Or 408.06 through Env-Or 408.10 by **October 31, 2016**; and
- 3) submit a closure report to DES for the pressurized piping associated with tanks #5A, #5B, and #5C and the gravity piping for tank #6 in accordance with Env-Or 408.10 by **November 30, 2016**.

In addition to the deficiencies explained above, which form a basis to red-tag the facility, the following deficiencies remain outstanding:

Deficiency #7: Failure to lock fill caps of temporarily closed tank(s).

During the February Inspection, the DES inspector determined that tank #6 was temporary closed but fill caps were not locked to prevent filling. Env-Or 408.04(a)(2) requires equipping each opening or access point, such as fill risers, with a lock to secure against unauthorized use or tampering. Please add locks to all fill caps of tanks temporary closed and submit documentation to notify DES locks have been added.

Deficiency #8: Failure to remove all liquid to less than one inch.

During the February Inspection, the DES inspector determined that tank #6 was temporary closed, but contained more than one inch of liquid. Env-Or 408.04(a)(1) requires removing all regulated substances from the system so that no more than one inch of residue remains in the tank. Please remove all liquid to less than one inch and submit documentation to notify DES all liquid has been removed to less than one inch.

Deficiency #9: Failure to install correct pressure/vacuum cap for tank #5B.

During the February Inspection, the DES inspector determined that the correct pressure/vacuum cap was not installed for tank #5A. Env-Or 504.02(a)(2) requires the owner or operator of a gasoline dispensing facility must equip each vent pipe on an UST with a pressure/vacuum cap. To correct this deficiency, please install the correct vent cap and provide installation records for this tank system.

Deficiency #10: Failure to recertify class A and B operator.

During the file review of DES records, the current class A and B operator at the subject site is past due for Operator Training recertification. RSA 146-C:18 requires class A and B operator training at least biennial retraining after their initial training. William H. Newbegin is currently listed as the class A/B operator with a certification expiration date of March 6, 2015. To correct this deficiency, please have at least one employee that has primary responsibility for operating and maintaining the Facility to attend UST Operator Training or submit a new statement of training (enclosed) designating new certified class A and B operators for the subject site. Please visit the UST Operator Training website at <http://des.nh.gov/organization/divisions/waste/orcb/ocs/ustp/operator-training/index.htm> to view a list of upcoming classes offered by DES and other approved class A and B training programs.

DES believes you can correct deficiencies #7, #8, #9, and #10 as noted in this letter within **30 days**.

The Commissioner of DES is authorized by RSA 146-C:10-a to impose administrative fines up to \$2,000 per offense for any violation of RSA 146-C or Env-Or 400. DES also has authority to issue an administrative order to require you to correct the deficiencies and to refer the case to the NH Department of Justice for civil penalties or criminal prosecution. In addition, because the subject facility is in violation of RSA 146-C, **you currently are not eligible for reimbursement of cleanup costs incurred should a spill or release occur at your facility.**

Please contact the undersigned in the Waste Management Division of DES as soon as the above deficiencies are corrected, or if you already have corrected them. Please also contact the undersigned if you have any questions regarding this letter.

Sincerely,



Michael W. Juranty, P.E., Supervisor  
Oil Compliance Section  
Tel No. (603) 271-6058  
Fax No. (603) 271-2181  
Email: [Michael.Juranty@des.nh.gov](mailto:Michael.Juranty@des.nh.gov)

Attachments: February 29, 2016 UST Facility Inspection Report  
UST Registration Form  
UST Closure Notification Form  
UST Statement of Training Form  
RSA 146-C:14, 15, & 16: Delivery Prohibition

cc: DES Legal Unit  
ec: Tamworth Health Officer  
DES IRT List



The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**



**Thomas S. Burack, Commissioner**

2/29/2016

KUSHAL KAHLON  
KUSHAL PAL KAHLON  
PO BOX 476  
CHOCORUA, NH 03817-0476

**Subject Site: TAMWORTH, G III FANCY FOODS & GAS, 9 WHITE MOUNTAIN HWY**  
DES Site # 199110092, UST Facility # 0112688

**Reference:** Underground Storage Tank Facility Inspection Report

On February 29, 2016 the New Hampshire Department of Environmental Services, Waste Management Division (DES) conducted an inspection of the underground storage tank (UST) system(s) at the subject site. The inspection was conducted to determine the level of compliance with key elements of the New Hampshire Code of Administrative Rules Env-Or 400 Underground Storage Facilities (UST Rules) and Env-Or 500, Recovery of Gasoline Vapors. These rules were established for the purpose of reducing the number of product releases to the environment from UST systems and to establish a leak detection system which would alert a facility owner or operator before significant environmental damage and economic loss occurs. The inspection conducted at this facility is part of the DES release prevention effort.

**Deficiencies noted during this inspection warrant your facility to be considered in substantial non-compliance with applicable rules. This means they pose a threat of a release to the environment and may result in a release going undetected. The following deficiency(ies) requires your immediate attention:**

**GENERAL**

Env-Or 408.04-10 requires that temporary and permanent closure requirements be met for certain UST systems and components.

The DES inspector has determined there are one or more UST system(s) that have single wall components that routinely contain regulated substance requiring closure by December 22, 2015.

***Please permanently close all single wall components, starting with submittal of closure notification form at least 30 days prior to the closure and submittal of a closure report within 30 days after the closure.***

**TANK #5A (Containing GASOLINE with Capacity of 10000 gallons)**

Env-Or 504.02 requires the owner or operator of a gasoline storage tank at a gasoline dispensing facility or a bulk gasoline plant to install, maintain, and operate a stage I system that is a certified vapor recovery system or a DES approved alternative, and to upgrade the P/V vent cap no later than November 17, 2015.

The DES inspector has determined that the correct P/V vent cap was not installed for this gasoline tank.  
[ref Env-Or 504.02]

***Please install the correct vent cap and provide installation records for this tank system.***

DES Web Site: [www.des.nh.gov](http://www.des.nh.gov)

P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095

Telephone: (603) 271-3899

Fax: (603) 271-2181

TDD Access: Relay NH 1-800-735-2964

Env-Or 405.06 requires overfill protection devices be installed and maintained in good working order on all UST systems.

The overfill protection device was not installed at the required 90% alert or 95% shut off level.

***Please provide overfill protection installation (including measurements) at the 90% alert and 95% shut off level.***

Env-Or 405.09 and 406.08 require leak monitoring for piping be properly installed and continuously operate. The low point sump and leak monitoring system must be maintained pursuant to the requirements of Env-Or 406.08. Additionally, Env-Or 407.05(d) and Saf-C 6000 requires that UST system components be installed in accordance with fire code requirements.

The DES inspector has determined that there is evidence of liquid accumulating in sump.

***Please determine cause of liquid accumulation. Repair sump, test for tightness and submit report to DES of maintenance or notify DES that this tank system is empty of all product and is temporarily closed.***

#### **TANK #5B (Containing GASOLINE with Capacity of 6000 gallons)**

Env-Or 504.02 requires the owner or operator of a gasoline storage tank at a gasoline dispensing facility or a bulk gasoline plant to install, maintain, and operate a stage I system that is a certified vapor recovery system or a DES approved alternative, and to upgrade the P/V vent cap no later than November 17, 2015.

The DES inspector has determined that the correct P/V vent cap was not installed for this gasoline tank.  
[ref Env-Or 504.02]

***Please install the correct vent cap and provide installation records for this tank system.***

Env-Or 405.06 requires overfill protection devices be installed and maintained in good working order on all UST systems.

The overfill protection device was not maintained in good working order.

***Please provide overfill protection installation or maintenance results.***

#### **TANK #5C (Containing DIESEL FUEL with Capacity of 4000 gallons)**

Env-Or 405.05 and 406.06 require spill containment devices be installed and maintained in good working order on all UST systems.

Spill containment device was not maintained in good operating order.

***Please provide spill containment installation or maintenance results.***

Env-Or 405.08 requires continuous leak monitoring of double wall tank systems and Env-Or 406.20 requires annual leak monitoring system testing for proper operation.

The DES inspector has determined that the tank has liquid in the interstitial space.

***Pursuant to Env-Or 406.10, Unusual Operating Conditions, please remove the liquid from the interstitial space and notify DES that this has been done.***

Env-Or 405.09 and 406.08 require leak monitoring for piping be properly installed and continuously operate. The low point sump and leak monitoring system must be maintained pursuant to the requirements of Env-Or 406.08. Additionally, Env-Or 407.05(d) and Saf-C 6000 requires that UST system components be installed in accordance with fire code requirements.

The leak monitor for piping was not continuously operating.

***The above issue was resolved during the on-site inspection. No additional documentation is needed for this specific issue.***

**TANK #6 (Containing KEROSENE with Capacity of 2000 gallons)**

Env-Or 408.04-10 requires that temporary and permanent closure requirements be met for certain UST systems and components.

The DES inspector has determined that a tank was temporary closed but contains more than 1" of liquid.

***Please remove all liquid to less than 1".***

Env-Or 408.04-10 requires that temporary and permanent closure requirements be met for certain UST systems and components.

The DES inspector has determined that a tank was temporary closed but fill caps are not locked to prevent filling.

***Please add locks to all fill caps of tanks temporary closed.***

Env-Or 408.04-10 requires that temporary and permanent closure requirements be met for certain UST systems and components.

The DES inspector has determined there are one or more UST system(s) that have single wall components that routinely contain regulated substance requiring closure by December 22, 2015.

***Please permanently close all single wall components, starting with submittal of closure notification form at least 30 days prior to the closure and submittal of a closure report within 30 days after the closure.***

The above noted **deficiencies must be corrected within 30 days** of the date of this inspection. To verify that the proper corrective measures were taken, documentation, in the form of a report from the certified technician that effected the repair, testing results, invoices, inventory records, photographs, etc., indicating the date and description of the corrective measures taken must be **submitted to DES within 45 days** of the date of this inspection. Please be advised that failure to correct the deficiencies in a proper and timely manner will result in DES proceeding under the DES Compliance Assurance Response Policy to determine an appropriate enforcement response. Please note that New Hampshire RSA 125-C and 146-C authorize permit revocation, administrative fines not to exceed \$2,000 per violation, administrative orders, delivery prohibition, injunctive relief, and civil penalties not to exceed \$10,000 per violation per day of continuing violation, and \$25,000 for each continued day of a repeat violation.

Your signature below acknowledges that you were briefed by DES staff concerning the noted deficiencies. Should you have any questions concerning the content of this letter, please contact me in the Waste Management Division of DES at (603) 271-3899. DES appreciates your willingness to comply with the UST program in an effort to preserve New Hampshire's environment.



Sincerely,



2/29/2016

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GENEVIEVE AL-EGAILY, Inspector

Date

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KUSHAL KAHLON, Facility Manager

Date