



The State of New Hampshire
Department of Environmental Services



Thomas S. Burack, Commissioner

May 31, 2016

BY CERTIFIED MAIL # 7012 0470 0001 6069 3479

BY EMAIL AT: PATNAUDE74@GMAIL.COM

James Patnaude
Hampton River Marina, LLC
55 Harbor Road
Hampton, NH 03842

**NOTICE OF
INTENT TO RED TAG
IRT #16-074**

**LETTER OF DEFICIENCY
WMD LOD #16-078**

Subject Site/Facility: Hampton – Hampton River Marina, 55 Harbor Road
DES Site #199209019, UST Facility #0110776

**Reference: Intent to Red Tag #16-074
Letter of Deficiency WMD LOD #16-078**

Dear Mr. Patnaude:

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 deficiency #1 is not corrected within 10 days of the date of this 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 this letter; 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 or be discovered 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 a double-walled UST(s) with non-safe suction 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 non-safe suction piping at the subject site has been permanently closed in accordance with the requirements of Env-Or 408.05(c).

Therefore, pursuant to RSA 146-C:15, DES hereby notifies you of its **intent to red-tag** the non-compliant UST systems if **deficiency #1** as listed below is 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 this letter.**

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 the non-safe suction piping associated with tank #4, 10,000-gallon gasoline UST and tank #5, 10,000-gallon diesel UST at the subject site 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, permanently close the existing double-walled and non-monitored piping system(s) at the subject site in accordance with Env-Or 408.06 through Env-Or 408.10 and temporarily close the UST in accordance with Env-Or 408.04(a through d, and h).

DES will red-tag the non-compliant UST system(s) if deficiency #1 is not corrected by within 10 days of the date of this letter for tank #5 or, as noted above, 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 this letter for tank #5.

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 tank #5**, 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 taking the following actions:

- 1) submit a UST closure notification form for the non-safe suction piping to DES by **October 1, 2016**;
- 2) permanently close the non-compliant non-safe suction piping 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 non-safe suction piping in accordance with Env-Or 408.10 by **November 30, 2016**.

Our records indicate that tank #4 was red-tagged on March 19, 2016 for failure to comply with spill prevention, overfill protection, release detection, leak monitoring, and/or corrosion protection requirements. Our records also indicate that tank #5 was placed into temporary closure on November 8, 2007, in accordance with the requirements of Env-Or 408.04(a, b, and d). The UST system(s) are not currently in compliance with Env-Or 408.05(c) and may not be placed back in to service, as they do not comply with the leak monitoring requirements of Env-Or 408.04(h)(5).

RSA 146-C authorizes DES to issue an administrative order requiring the deficiencies be corrected, impose administrative fines up to \$2,000 per violation, and refer the matter to the NH Department of Justice for the imposition of 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 or be discovered 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
e-mail: Michael.Juranty@des.nh.gov

Attachments: UST Registration Form
UST Closure Notification Form
RSA 146-C:14, 15, & 16: Delivery Prohibition

cc: Hampton River Marina, LLC; PO Box 1500, Hampton NH 03842
Scott Bussiere, Manager, 16 Scott Avenue; Hooksett, NH 03106
DES Legal Unit

ec: Hampton Health Officer
DES IRT List