



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Robert R. Scott, Commissioner

October 31, 2018

CERTIFIED MAIL # 7016 1970 0000 4865 4019

**LETTER OF DEFICIENCY
WMD LOD #18-221**

BY EMAIL AT: PATNAUDE74@GMAIL.COM

James Patnuade
55 Harbor Road
Hampton, NH 03842

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

Reference: Failure to Conduct Periodic UST Testing and/or Reporting Requirements

Dear Mr. Patnuade:

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

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.

RSA 146-C authorizes the New Hampshire Department of Environmental Services (“NHDES”) to regulate the installation, maintenance, operation, licensing and closure of underground storage tanks (“USTs”). Pursuant to RSA 146-C:9, NHDES has adopted NH Code of Admin. Rules Env-Or 400 to set forth the requirements for UST facilities by establishing criteria for registration and permitting, standards for design, installation, operation, maintenance, and monitoring of such facilities (the “UST Rules”).

On May 31, 2016, NHDES issued **Notice of Intent to Red Tag No. IRT 16-074 and Letter of Deficiency WMD LOD #16-078** to Hampton River Marina, LLC for failure to permanently close existing non-compliant piping by December 22, 2015. According to NHDES records, tanks #4 and #5 are red-tagged. NHDES has not received notification that the non-compliant piping for tanks #4 and #5 have been permanently closed. This deficiency remains outstanding and requires your immediate attention.

On December 15, 2015, NHDES issued **Notice of Intent to Red Tag No. IRT 15-042 and Letter of Deficiency WMD LOD #15-110** to Hampton River Marina for failure to comply with release detection, corrosion protection, leak monitoring, and overfill protection requirements, among other deficiencies. NHDES has not received documentation verifying these deficiencies have been corrected. These deficiencies remain outstanding and require your immediate attention.

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In addition, on June 22, 2015, NHDES issued **Letter of Deficiency WMD** to Hampton River Marina for corrosion protection, overflow protection and temporary closure requirements, among other deficiencies. NHDES has not received documentation verifying these deficiencies have been corrected. These deficiencies remain outstanding and require your immediate attention.

To address the deficiencies identified in the previously issued enforcement letters, the following actions are needed:

- 1) In accordance with Env-Or 408.05(c), permanently close the non-compliant piping associated with tank #4 and tank #5 in accordance with Env-Or 408.06 through Env-Or 408.10.
- 2) In accordance with Env-Or 408.05(f), which states that the owner of any UST system that has been red-tagged in accordance with RSA 146-C:15 shall bring the system into compliance with all applicable requirements or permanently close the system within one year of the date the red tag was placed. Tank #4 was red-tagged on February 18, 2016, and tank #5 was red-tagged on May 9, 2017. In accordance with Env-Or 408.05(f), either bring tanks #4 and #5 into compliance with all applicable requirements or permanently close these systems.
- 3) If planning on bring one or more tanks into compliance, in accordance with RSA 146-C:18, 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.

NHDES conducted a file review of the existing UST facility at the subject site. Our review indicates that the additional deficiencies identified below have not been complied with to date. NHDES hereby issues Letter of Deficiency ("LOD") WMD LOD #18-221.

The current deficiencies and actions needed are as follows:

Deficiency #1: Failure to test cathodic protection systems.

Based on the review of NHDES records, the corrosion protection for tanks #4 and #5 have not been tested since June 16, 2014. Env-Or 406.17 requires cathodic protection systems to be tested within six months of installation and every three years thereafter. To correct this deficiency, the corrosion protection system must be tested to show the UST meets nationally accepted criteria recommended by NACE International (Standard #RP0285-95) and complies with the Env-Or 405.12 of the UST Rules.

Deficiency #2: Failure to submit cathodic protection test.

Based on the review of NHDES records, the corrosion protection test report for tanks #4 and #5 have not been submitted since July 8, 2014. Env-Or 406.17 requires the owner to send the cathodic protection test report to NHDES no later than 30 days after the test was performed. To correct this deficiency, the corrosion protection test must be submitted to show the UST meets nationally accepted criteria recommended by NACE International (Standard #RP0285-95) and complies with the Env-Or 405.12 of the UST Rules.

Deficiency #3: Failure to designate class A and B operator(s).

Based on the review of NHDES records, NHDES determined that a UST Statement of Training under the ownership of James Patnaude was not on file with NHDES. RSA 146-C:17, I prohibits anyone from operating a UST facility without designated class A, B, and C operators who have been trained and certified in accordance with an approved training program. 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 and submit a statement of training (enclosed) designating 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 NHDES and other approved class A and B training programs.

Deficiency #4: Failure to comply with temporary closure requirements.

Based on the review of NHDES records, the NHDES inspector determined that tank #4 has been temporarily closed, since July 2015. Env-Or 408.04(f) requires any portion of a UST system with secondary containment and leak monitoring that has been temporarily closed for three years, must be: reactivated per Env-Or 408.04(h); allowed to remain in temporary closure provided certain conditions are met per Env-Or 408.04(i); or permanently closed within 30 days per Env-Or 408.06 through 408.10. Please submit documentation of implementation of whichever option you selected.

Deficiency #5: Failure to lock fill caps of temporarily closed tank(s).

During a visit to the Facility on June 4, 2018, the NHDES inspector determined that tanks #4 and #5 were 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 NHDES locks have been added.

NHDES believes you can correct deficiencies #1, #2, #3, #4, and #5 as noted in this letter within **30 days**.

RSA 146-C authorizes NHDES to issue an administrative order requiring the deficiencies be corrected, impose administrative fines up to \$2,000 per offense, prohibit the delivery of fuel, and refer the matter to the NH Department of Justice for the imposition of civil penalties or criminal prosecution. Fines may be pursued for any or all deficiencies observed during any previous site visits and any future site visits. 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.**

James Patnaude
NHDES Site #199209019, UST Facility #0110776
October 31, 2018
Page 4 of 4

Please contact me in the Waste Management Division of NHDES as soon as the above deficiencies are corrected, or if you already have corrected them. I can be reached at (603) 271-3899 or by email at Matthew.Jones@des.nh.gov. Please also contact me if you have any questions regarding this letter.

Sincerely,



Matthew A. Jones, Compliance & Enforcement Subsection Chief
Oil Compliance Section
Tel. No. (603) 271-2986
Fax No. (603) 271-2181
Email: Matthew.Jones@des.nh.gov

Enclosures: May 31, 2016 Notice of Intent to Red Tag IRT #16-074/Letter of Deficiency WMD LOD #16-078
 December 15, 2015 Notice of Intent to Red Tag IRT #15-042/Letter of Deficiency WMD LOD #15-110
 June 22, 2015 Letter of Deficiency WMD #15-021
 UST Closure Notification Form
 Corrosion Protection Testing Form
 Statement of Training
 UST Registration Form

cc: NHDES Legal Unit

ec: Ernest J. Thibeault, III, Hampton River Marina, LLC, PO Box 1500, Hampton, NH 03843
 Hampton Health Officer
 Sarah Yuhas Kirn, P.G., Administrator, ORCB
 Spruce Wheelock, UST Leak Prevention & Operator Training Specialist, ORCB
 Laura Weit-Marcum, Enforcement Coordinator, ORCB
 Emily Szmyt, Enforcement Specialist, ORCB



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**

James Patnaude
DES Site #199209019, UST Facility #0110776
May 31, 2016
Page 3 of 3

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



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

December 15, 2015

BY CERTIFIED MAIL # 7011 1570 0003 6776 0674

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

**NOTICE OF
INTENT TO RED TAG
IRT #15-042**

**LETTER OF DEFICIENCY
WMD LOD #15-110**

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

Reference: Intent to Red Tag #15-042
Letter of Deficiency WMD LOD #15-110

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 systems if deficiencies #1, #2, #3, #4, #5, #6, #7, #8, and #9 as described below, are not corrected 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 at your facility.

DES conducts compliance inspections of underground storage tank (UST) facilities to determine the facility's compliance with N.H. RSA 146-C, Underground Storage Facilities, and N.H. Code Admin. Rules Env-Or 400, Underground Storage Tank Facilities (UST Rules). On October 29, 2015, DES staff conducted a compliance inspection of the subject UST facility at the subject site (October Inspection). By inspection report dated October 30, 2015, 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.

DES has not received documentation addressing the deficiencies identified in the inspection report. 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, #6, #7, #8, and #9** as listed below are not corrected **within 10 days** of the date of this letter. This letter also serves as a Letter of Deficiency regarding those deficiencies and deficiencies #10 through #18, as listed beginning on page 3.

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.

DES Web Site: 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

The deficiencies for all tanks are listed below.

Deficiency #1: Failure to conduct annual tightness test for pressurized piping.

During the October Inspection, the DES inspector determined that the annual tightness testing for piping for tank #4 was not conducted. Env-Or 405.11(b) requires owners of pressurized piping without secondary containment and leak monitoring must conduct annual tightness testing for release detection. To correct this deficiency, conduct an annual tightness testing for release detection for piping for tank #4.

Deficiency #2: Failure to submit annual tightness test for pressurized piping.

During the October Inspection, the DES inspector determined that the annual tightness testing for piping for tank #4 was not submitted. Env-Or 405.11(g)(3) requires the owner to submit test results to DES within 30 days of the test. To correct this deficiency, submit the annual tightness testing for release detection for piping for tank #4.

Deficiency #3: Failure to install cathodic protection for piping for tank #4.

During the October Inspection, the DES inspector determined that cathodic protection for piping for tank #4 was not installed. Env-Or 405.12(b) requires the piping system have a negative cathodic potential of at least 850 mV with the cathodic protection applied, measured with respect to a saturated copper/copper sulfate reference electrode contacting the electrolyte; the piping system has a minimum of 100 mV of cathodic polarization; or the requirements specified in NACE SP0285, Corrosion Control of Underground Storage Tank Systems by Cathodic Protection are met. If the cathodic protection system does not meet the requirements of Env-Or 405.12(b), Env-Or 405.12(c) requires the owner to repair or replace the system as specified in Env-Or 405.13; or if the failed cathodic protection system is not repaired within 90 days, permanently close the UST system in accordance with Env-Or 408.06 through Env-Or 408.10. To correct this deficiency, permanently close the UST system in accordance with Env-Or 408.06 through Env-Or 408.10.

Deficiency #4: Failure to test leak monitoring system.

During the October Inspection and based on a subsequent review of DES records, the annual leak monitoring for tank #4 has not been tested since June 16, 2014. Env-Or 406.20 requires owners to test all leak monitoring equipment annually for proper operation. To correct this deficiency, conduct an annual leak monitoring test.

Deficiency #5: Failure to submit leak monitoring system report.

During the October Inspection and based on a subsequent review of DES records, the annual leak monitoring test report for tank #4 has not been submitted since July 8, 2014. Env-Or 406.20 requires owners to submit the leak monitoring test to DES no later than 30 days after the test was performed. To correct this deficiency, submit an annual leak monitoring test.

Deficiency #6: Failure to investigate the cause of the failure and determine is system is leaking.

During the October Inspection and based on a subsequent review of DES records, the leak monitoring system for tank #4 was not continuously performing. On July 8, 2014, DES received a failed annual leak monitoring test for tank #4, confirming the leak monitoring system was not in proper operation per manufacturer's requirements. Env-Or 406.08(a) requires the UST system owner must maintain leak monitoring systems in good working order so they can continuously perform their original design function. Env-Or 406.08(c) requires the owner to

repair the system and clear and reset any alarm condition to normal operating mode within 15 working days, if a leak monitoring system malfunctions. If the system cannot be repaired and the alarm condition cleared and reset to normal operating mode within 15 days, the affected UST system(s) must be temporarily closed until satisfactory repairs are made. To correct this deficiency, submit monitoring replacement or maintenance results, and/or submit an amended UST registration form indicating that the system has been temporarily closed.

Deficiency #7: Failure to provide overfill protection installation.

During the October Inspection, the DES inspector could not verify the overfill protection device for tank #4 was installed at the required 90 percent alert or 95 percent shut off level. Env-Or 405.06 requires the primary overfill protection device on a UST system to 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 overfill protection installation (including measurements and pictures) at the 90 percent and 95 percent shut off level.

Deficiency #8: Failure to provide overfill protection installation or maintenance results.

During the October Inspection and based on a subsequent review of DES records, overfill protection device for tank #4 was not maintained in good working order. Env-Or 406.06(b)(2) requires spill containment equipment must be maintained in good working order to perform its original design function. Env-Or 405.05(c)(1) requires all spill containment equipment for a UST system must have a liquid capacity of 5 gallons or more. To correct this deficiency, replace, repair or clean to enable the device to collect and hold a minimum 5-gallon spill during product delivery. Submit spill containment maintenance results to DES.

Deficiency #9: Failure to repair cathodic protection for tank #4.

Based on a subsequent file review, DES determined that a failed cathodic protection test was conducted on June 16, 2014 and submitted to DES on July 8, 2014. Env-Or 405.12(c)(2) states that if the failed cathodic protection system is not repaired within 90 days, permanently close the UST system in accordance with Env-Or 408.06 through Env-Or 408.10. To correct this deficiency, permanently close tank #4 in accordance with Env-Or 408.06 through Env-Or 408.10.

As noted above, DES will red-tag the non-compliant UST systems if deficiencies 1, #2, #3, #4, #5, #6, #7, #8, and #9 are not corrected within 10 days of the date of this letter.

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

Deficiency #10: Failure to post operator response guidelines.

During the October Inspection, the DES inspector determined that the operator response guidelines were not posted. RSA 146-C:17, III of the UST statute requires an UST operator response guidelines be posted at the facility. Please post the operator response guidelines and submit in writing that the guidelines have been posted.

Deficiency #11: Failure to post UST certificate.

During the October Inspection, the DES inspector determined that an UST certificate was not posted. Env-Or 405.01(g) of the UST Rules requires that a UST certificate be permanently affixed on the facility premises and visible to a DES inspector. Please post the UST certificate on the facility premises and submit in writing that the certificate has been posted.

Deficiency #12: Failure to post a permit to operate.

During the October Inspection, the DES inspector determined that the permit to operate was not posted. Env-Or 404.05-07 of the UST Rules requires a permit to operate and that the permit is permanently affixed on the facility premises and visible to a DES inspector. If you are unable to locate your permit, a replacement permit can be submitted to you upon request. Please post the permit on the facility premises and submit in writing that the permit has been posted. *Please note, per Env-Or 404.06(b), that the permit cannot be issued to the facility until the site is in compliance with Env-Or 400, Env-Or 500, and any applicable requirements of Env-Or 600 or Env-Or 700 relative to corrective action and release response.*

Deficiency #13: Failure to comply with temporary closure requirements.

During the October Inspection, and a subsequent file review the DES inspector determined that tank #5 is temporarily closed. Tank #5 was temporarily closed on November 8, 2007. Env-Or 408.04 requires any portion of a UST system with secondary containment and leak monitoring that has been temporarily closed for two years or more as of September 1, 2013 to be reactivated, allowed to remain in temporary closure provided certain conditions are met, or permanently closed no later than September 1, 2014. Please submit documentation of implementation of whichever option you selected.

Deficiency #14: Failure to lock fill caps of temporarily closed tank(s).

During the October Inspection, the DES inspector determined that tank #5 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 #15: Failure to conduct annual stage II inspections.

Based on a subsequent file review, DES determined that annual stage II inspections were not being conducted. Env-Or 505.06(c) requires the owner or operator of a gasoline dispensing facility must conduct annual maintenance inspections of all stage II equipment at the facility as specified in Env-Or 505.09. To correct this deficiency, conduct the annual stage II inspection at the facility.

Deficiency #16: Failure to document annual stage II inspections.

Based on a subsequent file review, DES determined that annual stage II inspections were not being documented. Env-Or 505.09(b) requires the owner or operator to document each annual maintenance inspection, including all findings and repairs made, with written or electronic records kept in accordance with Env-Or 506.04. To correct this deficiency, submit documentation to DES showing the annual stage II inspection has been conducted.

Deficiency #17: Failure to conduct monthly stage II inspections.

Based on a subsequent file review, DES determined that monthly stage II inspections were not being conducted. Env-Or 505.06(b) requires the owner or operator of a gasoline dispensing facility to conduct monthly maintenance inspections of all stage II equipment at the facility as specified in Env-Or 505.08. To correct this deficiency, conduct the monthly stage II inspection at the facility.

Deficiency #18: Failure to document monthly stage II inspections.

Based on a subsequent file review, DES determined that monthly stage II inspections were not being documented. Env-Or 505.08(b) requires the owner or operator to document each monthly maintenance inspection, including all findings and repairs made, with written or electronic records kept in accordance with Env-Or 506.04. To correct this deficiency, submit the most recent monthly stage II inspection to DES.

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.**

DES believes you can correct deficiencies #10, #11, #12, #13, #14, #15, #16, #17, and #18 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 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
e-mail: Michael.Juranty@des.nh.gov

Attachments: October 30, 2015 UST Facility Inspection Report
Annual Leak Monitoring Test Form
Tank and Piping Tightness Testing Form
UST Registration Form
RSA 146-C:14, 15, & 16: Delivery Prohibition

cc: DES Legal Unit

ec: Hampton Board of Selectmen and Health Officer
DES IRT List



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

10/30/2015

JAMES PATNAUDE
JAMES PATNAUDE
55 HARBOR RD
HAMPTON, NH 03842-

Subject Site: HAMPTON, HAMPTON RIVER MARINA, 55 HARBOR RD
DES Site # 199209019, UST Facility # 0110776

Reference: Underground Storage Tank Facility Inspection Report

On October 29, 2015 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 404.05-07 requires a permit to operate and that the permit is permanently affixed on the facility premises and visible to a DES inspector.

The field inspection revealed that the permit is not posted. If you are unable to locate your permit, a replacement permit can be submitted to you upon request.

Please post the permit on the facility premises and submit in writing that the permit has been posted.

Env-Or 405.01(g) requires that a UST certificate be permanently affixed and visible to the DES inspector at the facility premises and RSA 146-C requires specific UST operator training postings and reporting, and requires significant operational compliance with the release prevention and release detection measures of the statute and Env-Or 400.

The DES inspector could not document that a certificate was posted.

Please post the UST certificate on the facility premises and submit in writing that the certificate has been posted.

Env-Or 405.01(g) requires that a UST certificate be permanently affixed and visible to the DES inspector at the facility premises and RSA 146-C requires specific UST operator training postings and reporting,

DES Web Site: 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

and requires significant operational compliance with the release prevention and release detection measures of the statute and Env-Or 400.

The DES inspector could not document that Facility Response Guidelines meeting the requirements of RSA 146-C:17,III was posted.

Please post the Facility Operator Response Guidelines pursuant to the requirements of RSA 146-C:17,III and notify DES in writing when complete.

TANK #4 (Containing GASOLINE with Capacity of 10000 gallons)

Env-Or 504.05 requires the owner or operator of a gasoline storage tank at a gasoline dispensing facility or bulk gasoline plant subject to Env-Or 504.01 shall perform and document monthly maintenance inspections.

The DES inspector could not document that monthly Stage I inspections are being conducted or that inspection records are being maintained.

Please provide this document to DES.

Env-Or 504.06 requires that the owner or operator of a gasoline storage tank at a gasoline dispensing facility or a bulk gasoline plant subject to Env-Or 504.01 shall perform a yearly maintenance inspection. The DES inspector could not document annual Stage I maintenance inspections are being conducted or that the inspection records are being maintained.

Please provide this document to DES.

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 working order.

The spill containment device shall be replaced, repaired or cleaned to enable the device to collect and hold a minimum 5-gallon spill during a product delivery. Please provide spill containment maintenance results.

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

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

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

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 could not verify that the leak monitor for the tank system listed was continuously performing. Any malfunction must be repaired within 15 working days or the affected systems shall be temporarily closed (all product removed to less than 1-inch) until satisfactory repairs are made.

Please provide monitor replacement or maintenance results, and/or indication that the system is temporarily closed.

Env-Or 406.08 requires leak monitoring equipment and devices to be maintained in good working order to continuously perform their original design function and Env-Or 406.20 requires annual testing proper operation.

The DES inspector has determined that the annual monitor test documentation was not available for the tank leak monitoring equipment and devices.

Please provide release detection test results records or close this system.

Env-Or 405.12 requires corrosion protection be installed on regulated piping prior to December 22, 1998. The piping corrosion (cathodic) protection was not installed; therefore, system must be permanently closed.

Please notify DES that tank system is temporarily closed and will be permanently closed.

Env-Or 405.11 and 406.12 requires owners of pressurized piping without secondary containment and leak monitoring to conduct tightness testing. Pipe pressure tightness tests shall have a detection limit equivalent to 0.1 gallon per hour at 1.5 times operating pressure.

The DES inspector has determined that the annual tightness testing was not conducted or submitted.

Please provide tightness test documentation to DES or close this piping system.

TANK #5 (Containing DIESEL FUEL with Capacity of 10000 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 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 that there is one or more single wall underground storage tank piping system(s) without secondary containment and leak monitoring which has been temporarily closed for more than 12 months at this location.

Please permanently close all single wall piping systems that have been temporarily closed for more than 12 months within 30 days.

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 there is one or more double wall underground storage tank system(s) which have been temporarily closed for more than 36 months at this location that have not been recertified in accordance with Env-Or 408.04(i).

Please permanently close all double wall systems that have been temporarily closed and not recertified for more than 36 months within 30 days.

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

JAMES PATNAUDE
DES Site # 199209019, UST Facility # 0110776
10/30/2015
Page 4 of 4

\$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,



10/30/2015

SPRUCE WHEELLOCK, Inspector

Date

JAMES PATNAUDE, Facility Manager

Date



The State of New Hampshire
Department of Environmental Services



Thomas S. Burack, Commissioner

June 22, 2015

CERTIFIED MAIL # 7011 3500 0001 0291 4381

**LETTER OF DEFICIENCY
WMD # 15-021**

Ernie Thibeau
Hampton River Marina
55 Harbor Road
Hampton, NH 03842

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

Reference: Failure to Comply with Corrosion Protection Testing, Overfill Protection and Temporary Closure Requirements

Dear Mr. Thibeau:

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

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.

The New Hampshire Department of Environmental Services (DES) conducted a file review of the existing underground storage tank (UST) facility at the subject site. Our review indicates that not all of the corrective actions listed in our February 7, 2014 Temporary Closure Status – Action Needed letter (attached) have been complied with to date. Additionally, as an owner or operator of an underground storage facility under RSA 146-C:17, no person shall operate an underground storage facility without designated class A, B, and C operators who have been trained and certified in accordance with an approved training program. At this time, DES has yet to receive paperwork regarding the correction of the below noted deficiencies. DES hereby issues LOD WMD #15-021. The current deficiencies and actions needed are as follows:

1. Deficiency #1: Failure to Repair or Replace Cathodic Protection System

Based on a subsequent file review, DES received results of a corrosion protection test performed on June 16, 2014 for the UST system located at the subject site. Env-Or 405.12 and Env-Or 406.17 of the New Hampshire Code of Administration Rules (“UST Rules”) require cathodic protection system installation and testing. The test results demonstrate that the piping and fitting for tank #4; 10,000 gallon; gasoline UST does not meet nationally accepted criteria for corrosion protection recommended by NACE International (Standard #RP0285-95) and does not comply with the Env-Or 405.12 of the UST Rules. The corrosion protection must be repaired within 90 days of the failed corrosion protection test or the UST system permanently closed. Please provide corrosion protection repair documentation or notify DES that the tank system is temporarily closed and will be permanently closed.



2. **Deficiency #2: Failure to Comply with Temporary Closure Requirements**

On February 7, 2014, DES issued Hampton Harbor Boatworks a letter requesting information regarding the temporary closure of tank #5, which was temporarily closed on November 8, 2007. Env-Or 408.04, Temporary Closure, requires any portion of a UST system with secondary containment and leak monitoring that has been temporarily closed for two years or more as of September 1, 2013 to be reactivated or permanently closed no later than October 1, 2014, unless certain conditions are met. Please submit documentation of implementation of whichever option you selected.

3. **Deficiency #3: Failure to Replace or Repair Malfunctioning Overfill Devices**

Based on a subsequent file review, DES received results of a overfill protection test performed on June 16, 2014 for tank #4 of the UST system located at the subject site. The test results demonstrate that the overfill alarm sensors and shutoff devices were manually activated and failed to be at the proper operating setting. Env-Or 406.18(g) requires any malfunctioning spill or overfill device be repaired within 30 working days. If the device cannot be repaired or replaced within 30 days, the affected system(s) shall be prohibited from taking a delivery until satisfactory repairs are made. Please submit documentation that the overfill device has been replaced or repaired or notify DES the tank has been placed in temporary closure.

4. **Deficiency #4: Failure to Recertify Class A and B Operators**

Based on a subsequent file review, James Patnaude attended a NH DES UST class for Operator Training on May 26, 2010. James Patnaude was initially certified as a Class A and B operator for the subject site on May 26, 2010 and recertified on May 22, 2013, with an expiration date of May 22, 2015. RSA 146-C:17, I prohibits anyone from operating an UST facility without designated class A, B, and C operators who have been trained and certified in accordance with an approved training program. RSA 146-C:17, II(a) requires owners of UST facilities to submit a statement signed by both the owner and the designated operators in a format approved by DES identifying the class A and B operators, the name of the approved program by which they are trained, the date that they were certified by the approved program, and the expiration date regarding their certification. Please submit a signed Operator Training Statement of Training listing the Class A and B operators for the Facility and their expiration date regarding their certification.

5. **Deficiency #5: Failure to Report Changes in Information on the UST Registration Form.**

Based on a subsequent file review, DES determined that the registration form for the UST system on file does not match the contact information and phone number DES has on record. RSA 146-C:3, III of the UST statute requires the owner of each underground storage facility to report any changes in relevant information, including owner's name, mailing address, telephone number and contact person for the facility within 10 days of the change. Please provide an updated registration form for the facility.

DES believes you can correct deficiencies #1, #2, #3, and #4 as noted in this letter within **30 days**. DES believes you can correct deficiency #5 as noted in this letter within **10 days**.

The Commissioner of DES is authorized by RSA 146-C:10-a to impose administrative fines up to \$2,000 per violation 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, prohibit the delivery of fuel, and refer the case to the NH Department of Justice for civil 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 or Matthew Jones in the Waste Management Division of DES as soon as the above deficiencies are corrected, or if you already have corrected them. Matthew can be reached at (603) 271-3899 or by email at Matthew.Jones@des.nh.gov. Please also contact the undersigned or Matthew 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: February 7, 2014 letter from DES, Statement of Training, and UST Registration Form

cc: Jim Patnaude, Contact Person in Charge of Tanks, 55 Harbor Rd., Hampton, NH 03842
DES Legal Unit

ec: Hampton Health Officer
Sarah Yuhas Kirn, P.G., Administrator, ORCB
Matt Jones, Compliance & Enforcement Subsection Chief, ORCB
Laura Weit-Marcum, Enforcement Coordinator, ORCB



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

February 7, 2014

HAMPTON HARBOR BOATWORKS
55 HARBOR RD
HAMPTON, NH 03842

SUBJECT SITE: HAMPTON, HAMPTON RIVER MARINA, 55 HARBOR RD
DES SITE #199209019, UST FACILITY ID #0110776

REFERENCE: TEMPORARY CLOSURE STATUS – ACTION NEEDED

ATTN: MICHAEL WHEELER

The New Hampshire Department of Environmental Services (DES) recently adopted Env-Or 400 (formerly Env-Wm 1401), Underground Storage Tank Facilities, effective September 1, 2013. These newly adopted rules have significant changes pertaining to temporarily closed facilities. Per Env-Or 408.04, Temporary Closure, any portion of an underground storage tank system with secondary containment and leak monitoring that has been temporarily closed for 2 years or more as of the 2013 effective date of this chapter shall, within one year of the 2013 effective date of this chapter, be reactivated per Env-Or 408.4(h), allowed to remain in temporary closure provided the conditions specified in Env-Or 408.04(i) are met, or permanently closed in accordance with Env-Or 408.06 through Env-Or 408.10.

DES records indicate that you have a tank system(s) currently in temporary closure. Please provide DES with the required information above prior to September 1, 2014. If you do not provide DES with documentation, we will proceed under the DES Compliance Assurance Response Policy to determine an appropriate enforcement response. Please note that New Hampshire RSA 146-C authorizes administrative fines not to exceed \$2,000 per violation, administrative orders, delivery prohibition, permit revocation, injunctive relief, and civil penalties not to exceed \$10,000 per violation per day of continuing violation.

Please feel free to contact me in the Waste Management Division of DES should you have any questions concerning the content of this letter or the steps needed to achieve compliance. DES appreciates your willingness to comply with the UST program in an effort to preserve New Hampshire's environment.

Sincerely,

Matthew Jones, Subsection Chief
Oil Remediation and Compliance Bureau
Tel: (603) 271-2986
Fax: (603) 271-2181
Email: Matthew.Jones@des.nh.gov