



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



**Robert R. Scott, Commissioner**

August 2, 2021

**BY CERTIFIED MAIL # 7015 3010 0000 1292 9596**

**BY EMAIL AT: VERNONDALESTORE@GMAIL.COM**

Robert DeFelice  
RLD Realty, LLC  
PO Box 477  
North Sutton, NH 03260

**NOTICE OF  
INTENT TO RED TAG  
IRT #21-010**

**LETTER OF DEFICIENCY  
WMD LOD #21-024**

**Subject Site/Facility:** **Sutton – Vernondale Store, 1526 Route 114  
NHDES Site #199708016, UST Facility #0110819**

**Reference:** **Intent to Red Tag IRT #21-010  
Letter of Deficiency WMD LOD #21-024**

Dear Mr. DeFelice:

**This letter contains important information that affects the continued operation of the subject facility.**

**If you do not correct deficiencies #1, #2, #3, #4, #5, #6, #7 and #8 as described below within 10 days of this letter, the non-compliant UST system(s) will be subject to be red-tagged by New Hampshire Department of Environmental Services (NHDES).**

**Additionally, the facility is not in compliance with RSA 146-C, and therefore is not eligible for reimbursement of cleanup costs incurred should a spill or release occur.**

On September 4, 2020, NHDES staff conducted a compliance inspection of the UST facility at the subject site (September 2020 Inspection). NHDES 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). By inspection report dated September 4, 2020, NHDES 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 NHDES within 45 days.

NHDES has not received documentation addressing any of the deficiencies identified in the inspection report. **Therefore, pursuant to RSA 146-C:15, NHDES hereby notifies you of its intent to red-tag the non-compliant UST systems (tanks #5A, #5B and #5C) for deficiencies #1, #2, #3, #4, #5, #6, #7 and #8.**

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.

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

PO Box 95, 29 Hazen Drive, Concord, NH 03302-0095

Telephone: (603) 271-3899 Fax: (603) 271-2181 TDD Access: Relay NH 1-800-735-2964

Please be aware that NHDES has adopted new regulations, effective October 10, 2018. A copy of the new regulations can be found online at the website listed below.

<https://www.des.nh.gov/sites/g/files/ehbemt341/files/documents/2020-01/Env-Or%20400.pdf>

The deficiencies for all tanks are listed below.

**Deficiency #1: Failure to conduct and submit passing primary containment system tightness test results.**

During the September 2020 Inspection, the NHDES inspector determined the triennial primary containment tightness testing for tanks #5A, #5B and #5C had not been conducted since July 14, 2017.

Env-Or 406.17(b) requires the owner of a motor fuel dispensing UST system to test the primary containment system for tightness no later than December 22, 2017, and triennially thereafter.

To correct this deficiency, conduct triennial tightness testing of the primary containment system, per Env-Or 406.17(b), and submit the passing test results to NHDES that meet the requirements of Env-Or 406.07.

If primary containment testing fails, as an unusual operating condition, notify NHDES per Env-Or 406.04. The owner shall investigate the cause of the unusual operating condition within 24 hours of becoming aware of the condition, implement measures to prevent or minimize a release, eliminate a leak, or otherwise correct the deficiency, and submit a written report to NHDES within 7 days that describes the investigation and its conclusions, per Env-Or 406.04(e).

**Deficiency #2: Failure to conduct and submit passing leak monitoring test results.**

During the September 2020 Inspection, the NHDES inspector determined the leak monitoring equipment for tanks #5A, #5B and #5C and their associated piping had not been tested annually for proper operation since July 30, 2017.

Env-Or 406.13(a) and (d) require owners to test all leak monitoring equipment annually for proper operation and submit test results to NHDES within 30 days of the date of the test.

To correct this deficiency, conduct annual leak monitor testing and submit passing test results to NHDES that meet the requirements of Env-Or 406.13(e) through (g).

If it is determined that the leak monitoring system is malfunctioning, Env-Or 406.02(c) requires the owner to repair the system and clear and reset any alarm condition to normal operating mode within 15 working days, or place the affected system(s) into temporary closure until satisfactory repairs are made.

Finally, if the leak monitor indicates a possible leak, the owner shall investigate the cause of the indication to determine if a leak has occurred, in accordance with Env-Or 406.04.

**Deficiency #3: Failure to provide continuous leak monitoring.**

During the September 2020 Inspection, the NHDES inspector could not verify if the leak monitoring for tanks #5A, #5B and #5C and their associated piping was continuously functioning.

Env-Or 406.02(a)(1) requires the UST system owner to maintain leak monitoring systems in good working order so they can continuously perform their original design function. Env-Or 405.08(b) requires all double-walled tanks to have continuous monitoring of the interstitial space for both the regulated substance and water.

To correct this deficiency, conduct maintenance to the leak monitoring system and submit passing leak monitoring test results to NHDES that meet the requirements of Env-Or 406.13(e) through (g). Please provide a description of maintenance in the comments section of the leak monitoring test report.

If it is determined that the leak monitoring system is malfunctioning, Env-Or 406.02(c) requires the owner to repair the system and clear and reset any alarm condition to normal operating mode within 15 working days, or place the affected system(s) into temporary closure in accordance with Env-Or 408.04 until satisfactory repairs are made.

Finally, if the leak monitor indicates a possible leak, the owner shall investigate the cause of the indication to determine if a leak has occurred, in accordance with Env-Or 406.04.

**Deficiency #4: Failure to conduct and submit passing spill containment tightness test results.**

During the September 2020 Inspection, the NHDES inspector, determined the fill pipe spill containment integrity testing for tanks #5A, #5B and #5C had not been conducted.

Env-Or 406.12(a) states that subject to Env-Or 406.12(b), (d) and (e) all spill containment equipment must be tested for tightness as specified in Env-Or 406.05 through Env-Or 406.08 no later than December 22, 2017 and triennially thereafter.

To correct this deficiency, conduct triennial tightness testing of the spill containment, per Env-Or 406.12, and submit the passing test results to NHDES.

Please refer to Env-Or 406.08(i) for test failure requirements, Env-Or 408.03 for repair requirements, and Env-Or 406.12(g) for closure requirements, if applicable. For closure of a spill containment device, please submit a summary of closure activity per Env-Or 406.12(g) and Env-Or 408.03(e).

**Deficiency #5: Failure to maintain spill containment equipment in good working order.**

During the September 2020 Inspection, the NHDES inspector determined the fill pipe spill containment for tanks #5A, #5B and #5C was not maintained in good working order.

Env-Or 406.01(b) requires spill containment equipment to be maintained free of liquid and debris, in good working order to perform its original design function, and liquid tight at its sides and bottom.

To correct this deficiency, submit written notification that the spill containment device is in good working order and submit maintenance documentation to NHDES, if applicable.

Please refer to Env-Or 406.08(i) for test failure requirements, Env-Or 408.03 for repair requirements, and Env-Or 406.12(g) for closure requirements, if applicable. For closure of a spill containment device, please submit a summary of closure activity per Env-Or 406.12(g) and Env-Or 408.03(e).

**Deficiency #6: Failure to conduct and submit passing primary overflow protection system test results.**

During the September 2020 Inspection, the NHDES inspector determined the primary overflow prevention device testing for tanks #5A, #5B and #5C had not been conducted since July 14, 2017.

Env-Or 406.11 requires that no later than December 22, 2017 and triennially thereafter, the owner of a UST system shall test the primary overflow protection system.

To correct this deficiency, conduct triennial primary overflow device testing, per Env-Or 406.11, and submit passing test results to NHDES.

Any malfunctioning overflow device shall be repaired within 30 days. If the device cannot be repaired or replaced within 30 days, the affected system shall be prohibited from taking a delivery until satisfactory repairs are made.

Any repaired or replaced overflow prevention device shall be immediately tested and reported to NHDES as specified in Env-Or 406.11(d) through (h).

**Deficiency #7: Failure to provide access to verify proper operation of overflow protection.**

During the September 2020 Inspection, the NHDES inspector could not verify if the overflow protection for tanks #5A, #5B and #5C was installed at the required 90% alert or 95% shut off level.

Env-Or 405.06(f) requires each overflow protection device to be accessible for inspection of proper operation. Env-Or 405.06(c) requires the primary overflow 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, including measurements and photographs, to NHDES that verifies overflow protection installation at the 90 percent alert or the 95 percent shut off level and overflow protection test results.

Any repaired or replaced overflow prevention device shall be immediately tested and reported to NHDES. Per Env-Or 406.03(c), no transfer of regulated substances shall be made to a UST system that is not equipped with overflow protection devices as required by Env-Or 405.06.

**Deficiency #8: Failure to verify proper installation of drop tube(s).**

During the September 2020 Inspection, the NHDES inspector could not verify if the highest exit point of the drop tube was within 4 to 6 inches from the bottom of tanks #5A, #5B and #5C.

Env-Or 405.01(j) requires all UST systems to be equipped with a submerged fill tube installed with a clearance of at least 4 but less than 6 inches between the bottom of the tank and the point at which the regulated substance can first exit the submerged fill tube.

To correct this deficiency, verify the drop tubes are installed in accordance with Env-Or 405.01(j) and submit documentation of the installation (including measurements and photographs) to NHDES.

**As noted above, NHDES will red-tag the non-compliant UST system(s) if deficiencies #1, #2, #3, #4, #5, #6, #7 and #8 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, this letter serves as a Letter of Deficiency for deficiencies #9, #10 and #11.

**Deficiency #9: Failure to conduct monthly visual inspections.**

During the September 2020 Inspection, the NHDES inspector determined monthly visual inspections had not been consistently or comprehensively conducted.

RSA 146-C:19, II and Env-Or 406.18(a) requires monthly visual inspections meeting certain minimum requirements to be conducted at all UST facilities by or under the direction of the class A or B operator. The results must be recorded in a monthly inspection. Deficiencies discovered during the inspection must be recorded, repaired or otherwise resolved within 30 days.

To correct this deficiency, conduct and record monthly visual inspections in accordance with RSA 146-C:19, II and Env-Or 406.18, and submit a copy of the most recent inspection report to NHDES.

**Deficiency #10: Failure to recertify class A/B operator(s).**

During the September 2020 Inspection, the NHDES inspector determined the recertification of both class A and B operators were overdue, as required by RSA 146-C:18(l)(a)(3).

RSA 146-C:17, I prohibits anyone from operating an UST facility without designated class A and B operators. Biennial retraining after the initial certification of class A and B operator training are required per RSA 146-C:18, l(a)(3) and RSA 146-C:18, l(b)(5), respectively.

To correct this deficiency, have at least one employee certified as a class A and B operator by an approved training program in accordance with RSA-C:18 and submit a new Statement of Training form to NHDES designating the certified class A and B operator(s) for the subject facility.

**Deficiency #11: Failure to update information on the UST Registration form.**

During the September 2020 Inspection, the NHDES inspector determined the UST registration information was not current.

Env-OR 404.01(d), as required by RSA 146-C:3, III, requires the owner of a registered UST facility to submit in writing to NHDES any change in the information required by RSA 146-C:3, I or II within 10 days of the change.

To correct this deficiency, submit an updated UST registration form to NHDES with all current UST system, owner and contact information or notify NHDES in writing that the current UST registration is accurate.

NHDES believes you can correct deficiencies #9 and #10 as noted in this letter within **30 days** and deficiency #11 as noted in this letter within **10 days**.

The Commissioner of NHDES 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. NHDES 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 and/or criminal prosecution.

Please contact the undersigned in the Waste Management Division of NHDES 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,



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](mailto:Matthew.Jones@des.nh.gov)

Enclosures:      September 4, 2020 UST Facility Inspection Report  
                         Annual Leak Monitoring Test Form  
                         Annual Line Leak Detector Test Form  
                         UST Operator's Monthly Visual Inspection Checklist  
                         Statement of Training  
                         UST Registration Form  
                         Triennial Overfill Prevention Device Testing Form  
                         Triennial Spill Containment Integrity Test Form  
                         RSA 146-C:14, 15, & 16: Delivery Prohibition

cc:            NHDES Legal Unit  
                 Robert DeFelice, RLD Realty, LLC, PO Box 536, North Sutton, 03260

ec:            Sutton Health Officer  
                 NHDES IRT List  
                 Suzanne Picone, UST Leak Prevention & Operator Training Specialist, ORCB



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

**Robert R. Scott, Commissioner**



9/4/2020

ROBERT L DEFELICE  
RLD REALTY LLC  
PO BOX 477  
N SUTTON, NH 03260-0477

**Subject Site: SUTTON, VERNONDALE STORE, 1526 RTE 114**  
DES Site # 199708016, UST Facility # 0110819

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

On September 04, 2020 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**

RSA 146-C:3 and Env-Or 404.01 through 404.05 require the owner of a UST facility to register the facility with DES by providing the information required by RSA 146-C:3, I and II and to notify the DES of any change in information within 10 days of the change to by submitting an amended registration.

A review of DES records indicates the registration information is not current.

***Please submit an updated UST registration form to DES with all current UST system, owner and contact information or notify DES in writing that the current UST registration is accurate.***

RSA 146-C:19, II and Env-Or 406.18 require monthly visual inspections be conducted by or under the direction of the class A or B operator at all UST facilities.

The DES inspector could not verify monthly visual inspections records are being conducted because the records were not available for the DES inspection per RSA 146-C:19, II.

***Please conduct and record monthly visual inspections and submit a copy of the most recent inspection report to DES.***

RSA 146-C:17-21 requires that all regulated facilities in New Hampshire have designated Class A, B and C operators who have been trained and certified in accordance with an approved training program, a posting of the certified Class C operators for the facility and a posting for the facility response guidelines.

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 404.06 through 404.08 require a permit to operate and that the permit is permanently affixed on the facility premises in a location that is visible to a DES inspector. Env-Or 405.01(g) requires that a UST certificate be permanently affixed and visible to the DES inspector at the facility premises. The DES inspector has determined the class A operator is currently overdue for recertification, as required by RSA 146-C:18(l)(a)(3).

***Please have the current class A operator recertified by an approved training program in accordance with RSA-C:18 and submit documentation of certification to DES; or designate a replacement class A operator by submitting a Statement of Training form to DES.***

RSA 146-C:17-21 requires that all regulated facilities in New Hampshire have designated Class A, B and C operators who have been trained and certified in accordance with an approved training program, a posting of the certified Class C operators for the facility and a posting for the facility response guidelines. Env-Or 404.06 through 404.08 require a permit to operate and that the permit is permanently affixed on the facility premises in a location that is visible to a DES inspector. Env-Or 405.01(g) requires that a UST certificate be permanently affixed and visible to the DES inspector at the facility premises. The DES inspector has determined the class B operator is currently overdue for recertification, as required by RSA 146-C:18(l)(b)(5).

***Please have the current class B operator recertified by an approved training program in accordance with RSA-C:18 and submit documentation of certification to DES; or designate a replacement class B operator by submitting a Statement of Training form to DES.***

**TANK #5A (Containing GASOLINE with Capacity of 7000 gallons)**

Env-Or 503.01 requires that the facility owner or operator of a gasoline storage tank with a capacity equal to or greater than 250 gallons shall equip the tank with a submerged fill tube, install the submerged fill tube with a clearance of 4 to 6 inches between the bottom of the tank and the highest opening of the submerged fill tube and utilize a submerged fill tube to fill the tank. Env-or 405.01(j) requires that all UST systems be equipped with a submerged fill tube installed with a clearance of at least 4 but less than 6 inches between the bottom of the tank and the point at which the regulated substance can first exit the submerged fill tube.

The DES inspector could not verify the highest exit point of the drop tube is within 4 to 6 inches from the bottom of the tank.

***Please install a new drop tube with the highest exit point 4 to 6 inches above the bottom of the tank or verify the drop tube is installed in accordance with Env-Or 405.01(j) and submit documentation of the installation (including measurements and photographs) to DES.***

Env-Or 405.05 and 406.01 require spill containment devices be installed and maintained in good working order on all UST systems.

The DES inspector has determined the fill spill containment was not maintained in good working order.

***Please either repair or replace the spill containment in accordance with Env-Or 408.03; or temporarily close the UST system, per Env-Or 408.04 and submit maintenance or installation results to DES. In the case of a spill containment device replacement, please submit tightness test results for the new device and a summary of closure activity in accordance with Env-Or 406.12 and Env-Or 408.03(g).***

***For closure of a spill containment device, please submit a summary of closure activity. If contamination is observed or if the integrity of the device is not verified prior to removal, include measurements from a photoionization detector per, Env-Or 406.12(g) and Env-Or 408.03(e).***



Env-Or 405.06 and Env-Or 406.01 require overfill protection devices be installed and maintained in good working order on all UST systems. Env-Or 405.06(f) requires each overfill protection device to be accessible for inspection of proper operation.

The DES inspector could not verify the overfill protection device was installed at the required 95% shut off level per Env-Or 405.06(c).

***Please submit documentation, including measurements and photographs, to DES that verifies overfill protection installation at the 90 percent alert or the 95 percent shut off level and overfill protection test results, as required by Env-Or 406.11. Any repaired or replaced overfill prevention device shall be immediately tested and reported as specified in Env-Or 406.11(d) through (h).***

Env-Or 406.13 requires the owner to conduct annual leak monitoring system testing for proper operation and submit test results to DES no later than 30 days after the date of the test.

The DES inspector has determined the tank leak monitoring equipment was not tested annually for proper operation.

***Please conduct annual leak monitor testing and submit passing test results to DES that meet the requirements of Env-Or 406.13(e) through (g).***

***If it is determined that the leak monitoring system is malfunctioning, Env-Or 406.02(c) requires the owner to repair the system and clear and reset any alarm condition to normal operating mode within 15 working days, or place the affected system(s) into temporary closure until satisfactory repairs are made.***

***Finally, if the leak monitor indicates a possible leak, the owner shall investigate the cause of the indication to determine if a leak has occurred, in accordance with Env-Or 406.04.***

Env-Or 406.13 requires the owner to conduct annual leak monitoring system testing for proper operation and submit test results to DES no later than 30 days after the date of the test.

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

***Please submit passing test results to DES that meet the requirements of Env-Or 406.13(e) through (g).***

Env-Or 405.08 and Env-Or 406.02 require leak monitoring of tank systems to be installed and in good working order to continuously perform their original design function. Env-Or 406.02 requires the interstitial or annular space for tanks to be free of debris and water.

The DES inspector could not verify the leak monitoring for the tank system listed was continuously performing.

***Please conduct maintenance to the leak monitoring system and submit passing leak monitoring test results to DES that meet the requirements of Env-Or 406.13(e) through (g). Please provide a description of maintenance in the comments section of the leak monitoring test report.***

***If it is determined that the leak monitoring system is malfunctioning, Env-Or 406.02(c) requires the owner to repair the system and clear and reset any alarm condition to normal operating mode within 15 working days, or place the affected system(s) into temporary closure in accordance with Env-Or 408.04 until satisfactory repairs are made.***

***Finally, if the leak monitor indicates a possible leak, the owner shall investigate the cause of the indication to determine if a leak has occurred, in accordance with Env-Or 406.04.***

Env-Or 406.13 requires the owner to conduct annual leak monitoring system testing for proper operation and submit test results to DES no later than 30 days after the date of the test.

The DES inspector has determined the piping leak monitoring equipment was not tested annually for proper operation.

***Please conduct annual leak monitor testing and submit passing test results to DES that meet the requirements of Env-Or 406.13(e) through (g).***

***If it is determined that the leak monitoring system is malfunctioning, Env-Or 406.02(c) requires the owner to repair the system and clear and reset any alarm condition to normal operating mode within 15 working days, or place the affected system(s) into temporary closure until satisfactory repairs are made.***

***Finally, if the leak monitor indicates a possible leak, the owner shall investigate the cause of the indication to determine if a leak has occurred, in accordance with Env-Or 406.04.***

Env-Or 406.13 requires the owner to conduct annual leak monitoring system testing for proper operation and submit test results to DES no later than 30 days after the date of the test.

The DES inspector has determined the annual test documentation was not available for the piping leak monitoring equipment.

***Please submit passing test results to DES that meet the requirements of Env-Or 406.13(e) through (g).***

Env-Or 405.09 and Env-Or 406.02 require leak monitoring of tank systems to be installed and in good working order to continuously perform their original design function. Env-Or 405.04, Env-Or 406.01 and Env-Or 406.02 require secondary containment for UST piping systems that is in good working order to perform their original design function, liquid tight and maintained free of liquid and debris.

The DES inspector could not verify the leak monitoring for the piping was continuously performing.

***Please conduct maintenance to the leak monitoring system and submit passing leak monitoring test results to DES that meet the requirements of Env-Or 406.13(e) through (g). Please provide a description of maintenance in the comments section of the leak monitoring test report.***

***If it is determined that the leak monitoring system is malfunctioning, Env-Or 406.02(c) requires the owner to repair the system and clear and reset any alarm condition to normal operating mode within 15 working days, or place the affected system(s) into temporary closure in accordance with Env-Or 408.04 until satisfactory repairs are made.***

***Finally, if the leak monitor indicates a possible leak, the owner shall investigate the cause of the indication to determine if a leak has occurred, in accordance with Env-Or 406.04.***

Env-Or 406.12 requires that no later than December 22, 2017 and triennially thereafter, all spill containment equipment without secondary containment and leak monitoring shall be tested for tightness as specified in Env-Or 406.05 through Env-Or 406.08.

The DES inspector has determined the fill spill containment integrity testing has not been conducted.

***Please conduct triennial tightness testing of the spill containment, per Env-Or 406.12, and submit the passing test results to DES.***

***Please refer to Env-Or 406.08 for test failure requirements, Env-Or 408.03 for repair requirements, Env-Or 406.12(g) for closure requirements, if applicable. For closure of a spill containment device, please submit a summary of closure activity. If contamination is observed or if the integrity of the device is not verified prior to removal, include measurements from a photoionization detector per, Env-Or 406.12(g) and Env-Or 408.03(e).***

***Immediately conduct applicable notification and response actions required of Env-Or 600 if a release has occurred.***

Env-Or 406.11 requires that no later than December 22, 2017 and triennially thereafter, the owner of a UST system shall test the primary overfill protection system.

The DES inspector has determined the primary overfill prevention device testing has not been conducted pursuant to env-or 406.11(a).

***Please conduct triennial primary overfill device testing, per Env-Or 406.11, and submit passing test results to DES. Any malfunctioning overfill device shall be repaired within 30 days. If the device cannot be repaired or replaced within 30 days, the affected system shall be prohibited from taking a delivery until satisfactory repairs are made. Any repaired or replaced overfill prevention device shall be immediately tested and reported to DES as specified in Env-Or 406.11(d) through (h).***

Env-Or 406.17 requires the owner of a motor fuel dispensing UST system to test the primary containment system for tightness no later than December 22, 2017, prior to operation after a significant system modification, and triennially after the initial test.

The DES inspector has determined the triennial primary containment tightness testing has not been conducted.

***Please conduct triennial tightness testing of the primary containment system, per Env-Or 406.17(b), and submit the passing test results to DES that meet the requirements of Env-Or 406.17(e).***

***If tightness test fails, please notify DES per Env-Or 406.08, investigate the cause of the failure and determine if the system has leaked within 7 days; or temporarily close the system within 7 days of the initial failure and permanently close the system within 30 days of the test failure in accordance with Env-Or 408.06 through 408.10. As an unusual operating condition, submit a written report to NHDES that describes the investigation and its conclusions, per Env-Or 406.04(e).***

***Please refer to Env-Or 406.08 for test failure requirements, Env-Or 408.01 and Env-Or 408.02 for repair requirements, Env-Or 408.06 through 408.10 for closure requirements, if applicable. Immediately conduct applicable notification and response actions required of Env-Or 600 if a release has occurred.***

#### **TANK #5B (Containing GASOLINE with Capacity of 3000 gallons)**

Env-Or 503.01 requires that the facility owner or operator of a gasoline storage tank with a capacity equal to or greater than 250 gallons shall equip the tank with a submerged fill tube, install the submerged fill tube with a clearance of 4 to 6 inches between the bottom of the tank and the highest opening of the submerged fill tube and utilize a submerged fill tube to fill the tank. Env-or 405.01(j) requires that all UST systems be equipped with a submerged fill tube installed with a clearance of at least 4 but less than 6 inches between the bottom of the tank and the point at which the regulated substance can first exit the submerged fill tube.

The DES inspector could not verify the highest exit point of the drop tube is within 4 to 6 inches from the bottom of the tank.

***Please install a new drop tube with the highest exit point 4 to 6 inches above the bottom of the tank or verify the drop tube is installed in accordance with Env-Or 405.01(j) and submit documentation of the installation (including measurements and photographs) to DES.***

Env-Or 405.05 and 406.01 require spill containment devices be installed and maintained in good working order on all UST systems.

The DES inspector has determined the fill spill containment was not maintained in good working order.

***Please either repair or replace the spill containment in accordance with Env-Or 408.03; or temporarily close the UST system, per Env-Or 408.04 and submit maintenance or installation results to DES. In the case of a spill containment device replacement, please submit tightness test results for the new device and a summary of closure activity in accordance with Env-Or 406.12 and Env-Or 408.03(g).***

***For closure of a spill containment device, please submit a summary of closure activity. If contamination is observed or if the integrity of the device is not verified prior to removal, include measurements from a photoionization detector per, Env-Or 406.12(g) and Env-Or 408.03(e).***

Env-Or 405.06 and Env-Or 406.01 require overfill protection devices be installed and maintained in good working order on all UST systems. Env-Or 405.06(f) requires each overfill protection device to be accessible for inspection of proper operation.

The DES inspector could not verify the overfill protection device was installed at the required 95% shut off level per Env-Or 405.06(c).

***Please submit documentation, including measurements and photographs, to DES that verifies overfill protection installation at the 90 percent alert or the 95 percent shut off level and overfill protection test results, as required by Env-Or 406.11. Any repaired or replaced overfill prevention device shall be immediately tested and reported as specified in Env-Or 406.11(d) through (h).***

Env-Or 406.13 requires the owner to conduct annual leak monitoring system testing for proper operation and submit test results to DES no later than 30 days after the date of the test.

The DES inspector has determined the tank leak monitoring equipment was not tested annually for proper operation.

***Please conduct annual leak monitor testing and submit passing test results to DES that meet the requirements of Env-Or 406.13(e) through (g).***

***If it is determined that the leak monitoring system is malfunctioning, Env-Or 406.02(c) requires the owner to repair the system and clear and reset any alarm condition to normal operating mode within 15 working days, or place the affected system(s) into temporary closure until satisfactory repairs are made.***

***Finally, if the leak monitor indicates a possible leak, the owner shall investigate the cause of the indication to determine if a leak has occurred, in accordance with Env-Or 406.04.***

Env-Or 406.13 requires the owner to conduct annual leak monitoring system testing for proper operation and submit test results to DES no later than 30 days after the date of the test.

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

***Please submit passing test results to DES that meet the requirements of Env-Or 406.13(e) through (g).***

Env-Or 405.08 and Env-Or 406.02 require leak monitoring of tank systems to be installed and in good working order to continuously perform their original design function. Env-Or 406.02 requires the interstitial or annular space for tanks to be free of debris and water.

The DES inspector could not verify the leak monitoring for the tank system listed was continuously performing.

***Please conduct maintenance to the leak monitoring system and submit passing leak monitoring test results to DES that meet the requirements of Env-Or 406.13(e) through (g). Please provide a description of maintenance in the comments section of the leak monitoring test report.***

***If it is determined that the leak monitoring system is malfunctioning, Env-Or 406.02(c) requires the owner to repair the system and clear and reset any alarm condition to normal operating mode within 15 working days, or place the affected system(s) into temporary closure in accordance with Env-Or 408.04 until satisfactory repairs are made.***

***Finally, if the leak monitor indicates a possible leak, the owner shall investigate the cause of the indication to determine if a leak has occurred, in accordance with Env-Or 406.04.***

Env-Or 406.13 requires the owner to conduct annual leak monitoring system testing for proper operation and submit test results to DES no later than 30 days after the date of the test.

The DES inspector has determined the piping leak monitoring equipment was not tested annually for proper operation.

***Please conduct annual leak monitor testing and submit passing test results to DES that meet the requirements of Env-Or 406.13(e) through (g).***

***If it is determined that the leak monitoring system is malfunctioning, Env-Or 406.02(c) requires the owner to repair the system and clear and reset any alarm condition to normal operating mode within 15 working days, or place the affected system(s) into temporary closure until satisfactory repairs are made.***

***Finally, if the leak monitor indicates a possible leak, the owner shall investigate the cause of the indication to determine if a leak has occurred, in accordance with Env-Or 406.04.***

Env-Or 406.13 requires the owner to conduct annual leak monitoring system testing for proper operation and submit test results to DES no later than 30 days after the date of the test.

The DES inspector has determined the annual test documentation was not available for the piping leak monitoring equipment.

***Please submit passing test results to DES that meet the requirements of Env-Or 406.13(e) through (g).***

Env-Or 405.09 and Env-Or 406.02 require leak monitoring of tank systems to be installed and in good working order to continuously perform their original design function. Env-Or 405.04, Env-Or 406.01 and Env-Or 406.02 require secondary containment for UST piping systems that is in good working order to perform their original design function, liquid tight and maintained free of liquid and debris.

The DES inspector could not verify the leak monitoring for the piping was continuously performing.

***Please conduct maintenance to the leak monitoring system and submit passing leak monitoring test results to DES that meet the requirements of Env-Or 406.13(e) through (g). Please provide a description of maintenance in the comments section of the leak monitoring test report.***

***If it is determined that the leak monitoring system is malfunctioning, Env-Or 406.02(c) requires the owner to repair the system and clear and reset any alarm condition to normal operating mode within 15 working days, or place the affected system(s) into temporary closure in accordance with Env-Or 408.04 until satisfactory repairs are made.***

***Finally, if the leak monitor indicates a possible leak, the owner shall investigate the cause of the indication to determine if a leak has occurred, in accordance with Env-Or 406.04.***

Env-Or 406.12 requires that no later than December 22, 2017 and triennially thereafter, all spill containment equipment without secondary containment and leak monitoring shall be tested for tightness as specified in Env-Or 406.05 through Env-Or 406.08.

The DES inspector has determined the fill spill containment integrity testing has not been conducted.

***Please conduct triennial tightness testing of the spill containment, per Env-Or 406.12, and submit the passing test results to DES.***

***Please refer to Env-Or 406.08 for test failure requirements, Env-Or 408.03 for repair requirements, Env-Or 406.12(g) for closure requirements, if applicable. For closure of a spill containment device, please submit a summary of closure activity. If contamination is observed or if the integrity of the device is not verified prior to removal, include measurements from a photoionization detector per, Env-Or 406.12(g) and Env-Or 408.03(e). Immediately conduct applicable notification and response actions required of Env-Or 600 if a release has occurred.***

Env-Or 406.11 requires that no later than December 22, 2017 and triennially thereafter, the owner of a UST system shall test the primary overfill protection system. The DES inspector has determined the primary overfill prevention device testing has not been conducted pursuant to env-or 406.11(a).

***Please conduct triennial primary overfill device testing, per Env-Or 406.11, and submit passing test results to DES. Any malfunctioning overfill device shall be repaired within 30 days. If the device cannot be repaired or replaced within 30 days, the affected system shall be prohibited from taking a delivery until satisfactory repairs are made. Any repaired or replaced overfill prevention device shall be immediately tested and reported to DES as specified in Env-Or 406.11(d) through (h).***

Env-Or 406.17 requires the owner of a motor fuel dispensing UST system to test the primary containment system for tightness no later than December 22, 2017, prior to operation after a significant system modification, and triennially after the initial test.

The DES inspector has determined the triennial primary containment tightness testing has not been conducted.

***Please conduct triennial tightness testing of the primary containment system, per Env-Or 406.17(b), and submit the passing test results to DES that meet the requirements of Env-Or 406.17(e).***

***If tightness test fails, please notify DES per Env-Or 406.08, investigate the cause of the failure and determine if the system has leaked within 7 days; or temporarily close the system within 7 days of the initial failure and permanently close the system within 30 days of the test failure in accordance with Env-Or 408.06 through 408.10. As an unusual operating condition, submit a written report to NHDES that describes the investigation and its conclusions, per Env-Or 406.04(e).***

***Please refer to Env-Or 406.08 for test failure requirements, Env-Or 408.01 and Env-Or 408.02 for repair requirements, Env-Or 408.06 through 408.10 for closure requirements, if applicable. Immediately conduct applicable notification and response actions required of Env-Or 600 if a release has occurred.***

#### **TANK #5C (Containing GASOLINE with Capacity of 2000 gallons)**

Env-Or 503.01 requires that the facility owner or operator of a gasoline storage tank with a capacity equal to or greater than 250 gallons shall equip the tank with a submerged fill tube, install the submerged fill tube with a clearance of 4 to 6 inches between the bottom of the tank and the highest opening of the submerged fill tube and utilize a submerged fill tube to fill the tank. Env-or 405.01(j) requires that all UST systems be equipped with a submerged fill tube installed with a clearance of at least 4 but less than 6 inches between the bottom of the tank and the point at which the regulated substance can first exit the submerged fill tube.

The DES inspector could not verify the highest exit point of the drop tube is within 4 to 6 inches from the bottom of the tank.

***Please install a new drop tube with the highest exit point 4 to 6 inches above the bottom of the tank or verify the drop tube is installed in accordance with Env-Or 405.01(j) and submit documentation of the installation (including measurements and photographs) to DES.***

Env-Or 405.05 and 406.01 require spill containment devices be installed and maintained in good working order on all UST systems.

The DES inspector has determined the fill spill containment was not maintained in good working order.

***Please either repair or replace the spill containment in accordance with Env-Or 408.03; or temporarily close the UST system, per Env-Or 408.04 and submit maintenance or installation results to DES. In the case of a spill containment device replacement, please submit tightness test results for the new device and a summary of closure activity in accordance with Env-Or 406.12 and Env-Or 408.03(g).***

***For closure of a spill containment device, please submit a summary of closure activity. If contamination is observed or if the integrity of the device is not verified prior to removal, include measurements from a photoionization detector per, Env-Or 406.12(g) and Env-Or 408.03(e).***

Env-Or 405.06 and Env-Or 406.01 require overfill protection devices be installed and maintained in good working order on all UST systems. Env-Or 405.06(f) requires each overfill protection device to be accessible for inspection of proper operation.

The DES inspector could not verify the overfill protection device was installed at the required 95% shut off level per Env-Or 405.06(c).

***Please submit documentation, including measurements and photographs, to DES that verifies overfill protection installation at the 90 percent alert or the 95 percent shut off level and overfill protection test results, as required by Env-Or 406.11. Any repaired or replaced overfill prevention device shall be immediately tested and reported as specified in Env-Or 406.11(d) through (h).***

Env-Or 406.13 requires the owner to conduct annual leak monitoring system testing for proper operation and submit test results to DES no later than 30 days after the date of the test.

The DES inspector has determined the tank leak monitoring equipment was not tested annually for proper operation.

***Please conduct annual leak monitor testing and submit passing test results to DES that meet the requirements of Env-Or 406.13(e) through (g).***

***If it is determined that the leak monitoring system is malfunctioning, Env-Or 406.02(c) requires the owner to repair the system and clear and reset any alarm condition to normal operating mode within 15 working days, or place the affected system(s) into temporary closure until satisfactory repairs are made.***

***Finally, if the leak monitor indicates a possible leak, the owner shall investigate the cause of the indication to determine if a leak has occurred, in accordance with Env-Or 406.04.***

Env-Or 406.13 requires the owner to conduct annual leak monitoring system testing for proper operation and submit test results to DES no later than 30 days after the date of the test.

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

***Please submit passing test results to DES that meet the requirements of Env-Or 406.13(e) through (g).***

Env-Or 405.08 and Env-Or 406.02 require leak monitoring of tank systems to be installed and in good working order to continuously perform their original design function. Env-Or 406.02 requires the interstitial or annular space for tanks to be free of debris and water.

The DES inspector could not verify the leak monitoring for the tank system listed was continuously performing.

***Please conduct maintenance to the leak monitoring system and submit passing leak monitoring test results to DES that meet the requirements of Env-Or 406.13(e) through (g). Please provide a description of maintenance in the comments section of the leak monitoring test report.***

***If it is determined that the leak monitoring system is malfunctioning, Env-Or 406.02(c) requires the owner to repair the system and clear and reset any alarm condition to normal operating mode within 15 working days, or place the affected system(s) into temporary closure in accordance with Env-Or 408.04 until satisfactory repairs are made.***

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Env-Or 406.13 requires the owner to conduct annual leak monitoring system testing for proper operation and submit test results to DES no later than 30 days after the date of the test.

The DES inspector has determined the piping leak monitoring equipment was not tested annually for proper operation.

***Please conduct annual leak monitor testing and submit passing test results to DES that meet the requirements of Env-Or 406.13(e) through (g).***

***If it is determined that the leak monitoring system is malfunctioning, Env-Or 406.02(c) requires the owner to repair the system and clear and reset any alarm condition to normal operating mode within 15 working days, or place the affected system(s) into temporary closure until satisfactory repairs are made.***

***Finally, if the leak monitor indicates a possible leak, the owner shall investigate the cause of the indication to determine if a leak has occurred, in accordance with Env-Or 406.04.***

Env-Or 406.13 requires the owner to conduct annual leak monitoring system testing for proper operation and submit test results to DES no later than 30 days after the date of the test.

The DES inspector has determined the annual test documentation was not available for the piping leak monitoring equipment.

***Please submit passing test results to DES that meet the requirements of Env-Or 406.13(e) through (g).***

Env-Or 405.09 and Env-Or 406.02 require leak monitoring of tank systems to be installed and in good working order to continuously perform their original design function. Env-Or 405.04, Env-Or 406.01 and Env-Or 406.02 require secondary containment for UST piping systems that is in good working order to perform their original design function, liquid tight and maintained free of liquid and debris.

The DES inspector could not verify the leak monitoring for the piping was continuously performing.

***Please conduct maintenance to the leak monitoring system and submit passing leak monitoring test results to DES that meet the requirements of Env-Or 406.13(e) through (g). Please provide a description of maintenance in the comments section of the leak monitoring test report.***

***If it is determined that the leak monitoring system is malfunctioning, Env-Or 406.02(c) requires the owner to repair the system and clear and reset any alarm condition to normal operating mode within 15 working days, or place the affected system(s) into temporary closure in accordance with Env-Or 408.04 until satisfactory repairs are made.***



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Env-Or 406.12 requires that no later than December 22, 2017 and triennially thereafter, all spill containment equipment without secondary containment and leak monitoring shall be tested for tightness as specified in Env-Or 406.05 through Env-Or 406.08.

The DES inspector has determined the fill spill containment integrity testing has not been conducted.

***Please conduct triennial tightness testing of the spill containment, per Env-Or 406.12, and submit the passing test results to DES.***

***Please refer to Env-Or 406.08 for test failure requirements, Env-Or 408.03 for repair requirements, Env-Or 406.12(g) for closure requirements, if applicable. For closure of a spill containment device, please submit a summary of closure activity. If contamination is observed or if the integrity of the device is not verified prior to removal, include measurements from a photoionization detector per, Env-Or 406.12(g) and Env-Or 408.03(e).***

***Immediately conduct applicable notification and response actions required of Env-Or 600 if a release has occurred.***

Env-Or 406.11 requires that no later than December 22, 2017 and triennially thereafter, the owner of a UST system shall test the primary overfill protection system.

The DES inspector has determined the primary overfill prevention device testing has not been conducted pursuant to env-or 406.11(a).

***Please conduct triennial primary overfill device testing, per Env-Or 406.11, and submit passing test results to DES. Any malfunctioning overfill device shall be repaired within 30 days. If the device cannot be repaired or replaced within 30 days, the affected system shall be prohibited from taking a delivery until satisfactory repairs are made. Any repaired or replaced overfill prevention device shall be immediately tested and reported to DES as specified in Env-Or 406.11(d) through (h).***

Env-Or 406.17 requires the owner of a motor fuel dispensing UST system to test the primary containment system for tightness no later than December 22, 2017, prior to operation after a significant system modification, and triennially after the initial test.

The DES inspector has determined the triennial primary containment tightness testing has not been conducted.

***Please conduct triennial tightness testing of the primary containment system, per Env-Or 406.17(b), and submit the passing test results to DES that meet the requirements of Env-Or 406.17(e).***

***If tightness test fails, please notify DES per Env-Or 406.08, investigate the cause of the failure and determine if the system has leaked within 7 days; or temporarily close the system within 7 days of the initial failure and permanently close the system within 30 days of the test failure in accordance with Env-Or 408.06 through 408.10. As an unusual operating condition, submit a written report to NHDES that describes the investigation and its conclusions, per Env-Or 406.04(e).***

***Please refer to Env-Or 406.08 for test failure requirements, Env-Or 408.01 and Env-Or 408.02 for repair requirements, Env-Or 408.06 through 408.10 for closure requirements, if applicable. Immediately conduct applicable notification and response actions required of Env-Or 600 if a release has occurred.***

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,



9/4/2020

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STEVE SCOTTON, Inspector

Date

9/4/2020

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ROBERT L DEFELICE, Facility Manager

Date

### Important Dates

Requirement	Tanks	Next Date Due	Frequency
Tank Leak Monitor Test	5A, 5B, 5C	Past Due	Annual
LLD Function Check	N/A	N/A	Annual
Tank Corrosion Protection Test	N/A	N/A	Every 3 years
Piping Corrosion Protection Test	N/A	N/A	Every 3 years
Fittings Corrosion Protection Test	N/A	N/A	Every 3 years
Spill Bucket Tightness Testing	5A, 5B, 5C	No previous test - Test Immediately	Every 3 years OR monthly interstice monitoring
Overfill Testing	5A, 5B, 5C	Past Due	Every 3 years
Primary Containment System Tightness Test	5A, 5B, 5C	Past Due	Every 3 years
Operator Monthly Checklist			Monthly
ROBERT DEFELICE - A Operator Training		Past Due	Every 2 years
ROBERT DEFELICE - B Operator Training		Past Due	Every 2 years