



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

December 1, 2021

BY CERTIFIED MAIL # 7011 3500 0001 0292 1051

BY EMAIL AT: OFFICEADMIN@MABARDYOIL.COM

Charles M. Mabardy, President and Director
Seabrook One Stop, Inc.
720 Lafayette Road
Seabrook, NH 03874

**NOTICE OF
INTENT TO RED TAG
IRT #21-021**

**LETTER OF DEFICIENCY
WMD LOD #21-054**

Subject Site/Facility: Somersworth – Somersworth One Stop II, 55 Route 108
NHDES Site #200012019, UST Facility #0111910

Reference: Intent to Red Tag IRT #21-021
Letter of Deficiency WMD LOD #21-054

Dear Mr. Mabardy:

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

If you do not correct deficiency #1 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 16, 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 16, 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 all 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 system (tank #5B) for deficiency #1.**

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

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 provide access to verify proper operation of overfill protection.

During the September 2020 Inspection, the NHDES inspector could not verify the overfill protection for tank #5B was installed at the required 90% alert or 95% shut off level per Env-Or 405.06(c).

Env-Or 405.06(f) requires each overfill protection device to be accessible for inspection of proper operation. Env-Or 405.06(c) requires the primary overfill protection device alert the transfer operator when the tank is no more than 90 percent full or automatically and completely shut off flow into the tank when the tank is no more than 95 percent full.

To correct this deficiency, submit documentation, including measurements and photographs, to NHDES that verifies overfill protection installation at the 90 percent alert or the 95 percent shut off level and overfill protection test results.

Any repaired or replaced overfill 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 overfill protection devices as required by Env-Or 405.06.

As noted above, NHDES will red-tag the non-compliant UST system if deficiency #1 is not corrected within 10 days of the date of this letter.

In addition to the deficiency explained above, which forms a basis to red-tag the facility, this letter serves as a Letter of Deficiency for deficiencies #2 and #3.

Deficiency #2: Failure to conduct and submit passing spill containment tightness test results.

Based on the review of NHDES records, the vapor and fill spill containment integrity testing for tanks #5A and #5B is overdue.

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.

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 #3: Failure to conduct and submit passing containment sump tightness test results.

Based on the review of NHDES records, the containment sump integrity testing has not been conducted for the dispenser sump(s) associated with tanks #5A and #5B.

Env-Or 406.14 requires that no later than October 13, 2021 and triennially thereafter, in accordance with Env-Or 406.05 through Env-Or 406.08 or Env-Or 406.15.

To correct this deficiency, conduct tightness testing of the containment sump that meets the requirements of Env-Or 406.05 through Env-Or 406.08 or Env-Or 406.15. and submit the passing test results to NHDES.

Refer to Env-Or 406.08 for test failure requirements, Env-Or 408.03 for repair requirements, Env-Or 406.14(h) and 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.

NHDES believes you can correct deficiencies #2 and #3 as noted in this letter within **30 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

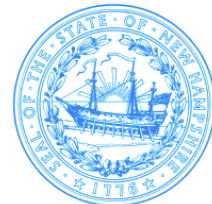
Enclosures: September 16, 2020 UST Facility Inspection Report
Triennial Overfill Prevention Device Testing Form
Triennial Spill Containment Integrity Test Form
RSA 146-C:14, 15, & 16: Delivery Prohibition

cc: NHDES Legal Unit

ec: Mike Lowry (mlowry@mabardyoil.com)
Somersworth Health Officer
NHDES IRT List



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

9/16/2020

MIKE LOWRY
SEABROOK ONE STOP INC
720 LAFAYETTE RD
SEABROOK, NH 03874-

Subject Site: SOMERSWORTH, SOMERSWORTH ONE STOP II, 55 RTE 108
DES Site # 200012019, UST Facility # 0111910

Reference: Underground Storage Tank Facility Inspection Report

On September 16, 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:

TANK #5A (Containing REGULAR with Capacity of 11000 gallons)

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 406.09 requires automatic line leak detectors to be tested annually in accordance with the manufacturer's requirements to confirm that they are operating in accordance with their designed functions and requires the facility owner to submit test results to DES no later than 30 days after the date of the test.

The DES inspector has determined the line leak detector was not tested annually for proper operation.

DES Web Site: www.des.nh.gov

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

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

Please conduct annual line leak detection testing and submit passing test results to DES that meet the requirements of Env-Or 406.09(b) and (c).

If it is determined that the line leak detection system is malfunctioning, Env-Or 406.09(f) requires the owner to remove the affected piping system(s) from service until the line leak detector is repaired or replaced and passes the line leak detector test.

Finally, if the line leak detection system 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.

TANK #5B (Containing SUPER with Capacity of 4000 gallons)

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 was installed at the required 90% alert or 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. 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 406.09 requires automatic line leak detectors to be tested annually in accordance with the manufacturer's requirements to confirm that they are operating in accordance with their designed

functions and requires the facility owner to submit test results to DES no later than 30 days after the date of the test.

The DES inspector has determined the line leak detector was not tested annually for proper operation.

Please conduct annual line leak detection testing and submit passing test results to DES that meet the requirements of Env-Or 406.09(b) and (c).

If it is determined that the line leak detection system is malfunctioning, Env-Or 406.09(f) requires the owner to remove the affected piping system(s) from service until the line leak detector is repaired or replaced and passes the line leak detector test.

Finally, if the line leak detection system 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.

The above noted **deficiencies must be corrected within 30 days** of the date of this email. 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,

A handwritten signature in black ink, appearing to read "Robert Stockman", written in a cursive style.

9/16/2020

ROBERT STOCKMAN, Inspector

Date

MIKE LOWRY, Facility Manager

Date

Important Dates

Requirement	Tanks	Next Date Due	Frequency
Tank Leak Monitor Test	5A, 5B	Past Due	Annual
LLD Function Check	5A, 5B	Past Due	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	12/19/2020	Every 3 years OR monthly interstice monitoring
Overfill Testing	5A	9/16/2023	Every 3 years
Overfill Testing	5B	Failed - Retest Immediately	Every 3 years
Primary Containment System Tightness Test	5A, 5B	9/20/2020	Every 3 years
Operator Monthly Checklist			Monthly
JAMES ROGERS - B Operator Training		Past Due	Every 2 years
TODD LACOURSE - B Operator Training		Past Due	Every 2 years
TODD LACOURSE - A Operator Training		Past Due	Every 2 years
WILLIAM WHIPPLE - A Operator Training		10/24/2020	Every 2 years