



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

September 6, 2023

BY CERTIFIED MAIL #7018 2290 0001 5884 7666
BY EMAIL: glenmeder@gmail.com

NOTICE OF INTENT TO RED-TAG

NHDES IRT #23-002

Mr. Glen Meder
DMS Fuels LLC
2830 Dartmouth College Highway
Haverhill, NH 03774

Subject Site/Facility: **HAVERHILL – DMS Fuels LLC**, 2830 Dartmouth College Highway
NHDES Site No. 199209012, UST Facility No. 0110638

Dear Mr. Meder:

This Notice contains important information that affects the continued operation of UST Facility No. 0110638. Please carefully read the entirety of this Notice as it requires your **immediate attention**.

The New Hampshire Department of Environmental Services (NHDES) provides regulatory oversight of underground storage tank (UST) facilities operating in New Hampshire to ensure they are in compliance with NH Statute RSA 146-C, Underground Storage Facilities; and, with the New Hampshire Code of Administrative Rules in Env-Or 400, Underground Storage Tank Facilities (UST Rules).

Pursuant to RSA 146-C:5, NHDES staff conducted a routine compliance inspection of the UST system(s) at the Subject Site on November 22, 2021 and subsequently provided you with a copy of the completed UST Facility Inspection Report (Report), dated November 22, 2021. If you have misplaced your Report, an electronic copy can be found at [Onestop Search \(state.nh.us\)](https://onestopsearch.state.nh.us), by selecting the “underground storage tank” box within the Area of Interest and scrolling down and typing “0110638” in the facility ID box. Click the “Underground Storage Tank Program” in the Interest(s) column and scroll to the “Documents” section where you will find the Report.

In that Report, NHDES summarized discovered deficiencies, cited applicable regulatory requirements, provided the option(s) available for correcting the deficiencies; and, informed you of the deadline(s) by which the deficiencies must be resolved. Once the deficiencies were corrected at the Facility, all associated verifying information was required to be submitted to NHDES within the timeframe specified in the Report. As of the date of this Notice, NHDES **has not** received all required verifying information.

Therefore, pursuant to specific guidelines in RSA 146-C:15 ([Section 146-C:15 Red-Tagging Procedure](#)), NHDES has prepared this **Notice of Intent to Red-Tag** (IRT) to initiate formal proceedings to address your facility’s non-compliant status and instruct you to take immediate action to resolve the remaining deficiencies of Rule and Statute. If you do not correct the below deficiencies within **15 days** from the date of this Notice, all non-compliant UST system(s) will be red-tagged by NHDES staff. This Red-Tag event will occur on **Thursday, September 21, 2023**. Moreover, because the facility is not in compliance

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with RSA 146-C, reimbursement of cleanup costs through the New Hampshire Petroleum Reimbursement Fund Program, authorized by NH Statute [RSA 146-D \(Oil Discharge and Disposal Cleanup Fund\)](#) and administered under [NH Administrative Rules Odb 400](#), may not be available to you if a newly discovered spill or release occurs.

Based on current NHDES records, the following deficiencies pertaining to spill prevention, overfill protection, release detection, leak monitoring, and/or corrosion protection remain outstanding and must be immediately resolved:

TANK #10 (Containing #2 HEATING OIL with Capacity of 10,000 gallons)

1. The NHDES inspector has determined the containment sump integrity testing has not been conducted. **Past due as of 10/13/2021**
2. **File Review (FR)** Annual leak monitoring equipment test. **Past due as of 09/01/2022**

TANK #11 (Containing DIESEL FUEL with Capacity of 6,000 gallons) – Red Tagged 06/30/2021

FR/ Env-Or 408.05(f) 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. **This UST system was required to be permanently closed by 06/30/2022**

TANK #12 (Containing OFF ROAD DIESEL with Capacity of 4,000 gallons)

3. The NHDES inspector determined the piping leak monitoring test failed. **Verifying information past due as of 01/08/2022**
4. The NHDES inspector has determined the primary piping for the tank system may not be tight. **Verifying information past due as of 01/08/2022**
5. **FR/** Annual leak monitoring equipment test. **Past due as of 09/10/2022**

TANK #14 (Containing REGULAR with Capacity of 10,000 gallons)

6. The NHDES inspector has determined the containment sump integrity testing has not been conducted. **Past due as of 10/13/2021**
7. **FR/** Annual leak monitoring equipment test. **Past due as of 09/01/2022**
8. **FR/** Annual line leak detector test. **Past due as of 09/01/2022**

TANK #15 (Containing SUPER with Capacity of 5,000 gallons)

9. The NHDES inspector has determined the containment sump integrity testing has not been conducted. **Past due as of 10/13/2021**
10. **FR/** Annual leak monitoring equipment test. **Past due as of 09/01/2022**
11. **FR/** Annual line leak detector test. **Past due as of 09/01/2022**

DISPENSERS #5-6; 7-8; 9-10

12. The NHDES inspector has determined storm water is accumulating in the dispenser sump. **Verifying information past due as of 01/08/2022**
13. The NHDES inspector has determined a breakaway that meets the requirements of NFPA 30A , Chapter 6, Section 5.2 on the diesel dispensing hoses is not installed on the right side of the extension line. **Verifying information past due as of 01/08/2022**
14. **FR/** Dispenser containment sump test. **Past due as of 10/13/2021**

Pursuant to RSA 146-C:14, Delivery Prohibition - I. No person shall deliver or cause the delivery of oil to a non-compliant storage tank or facility which has been red-tagged; II. No owner or operator of a facility may deposit or allow the deposit of oil into an underground storage tank or facility that has a red tag affixed to the tank or facility's fill pipe; III. No person may deposit oil into an underground storage tank or facility that has a red tag affixed to the fill pipe; and, IV. No person shall deface, alter, or otherwise tamper with a red tag so that the information contained is not legible.

NHDES reserves the right to pursue additional enforcement actions for all outstanding deficiencies summarized in our Report, as well as any violations subsequently identified. In addition to our authority to Red-Tag a UST facility or system, the Commissioner of NHDES is authorized by RSA 146-C:10-a to impose administrative fines for any violation/s of RSA 146-C or Env-Or 400. NHDES also reserves the right to issue an Administrative Order to the owner and/or operator; and, refer violations of Statute and Rule to the New Hampshire Department of Justice (NHDOJ) for injunctive relief. Generally, these referrals are considered only when our initial requests and requirements are ignored and/or if a pattern of behavior is identified. NHDES is confident that you will properly respond to this Notice of IRT and any future UST Facility Inspection Reports in order to avoid formal enforcement actions, including those specified in this Notice.

Pursuant to RSA 146 C:16, a facility owner may request, in writing, that the department rescind the delivery prohibition imposed under RSA 146-C:14. The department shall approve a request to rescind the delivery prohibition upon determining the following: (a) the facility owner or operator has corrected the operational deficiencies identified during the inspection conducted under RSA 146-C:15, I; (b) fines and penalties assessed by the department against the facility owner or operator, if any, have been paid; and (c) the department has re-inspected the facility and determined the storage tank or facility is in compliance, or an owner or operator has provided satisfactory documentation that operational deficiencies were corrected.

In addition to the deficiencies outlined above, please address all deficiencies called out in our Report, which might have included expired biennial operator training certification, incomplete monthly inspection records, unavailable permit postings, outdated registration/operational documents, and violations of Env-Or 500. Moreover, deficiencies that are recognized upon a file review of the current status of the Facility should also be resolved to achieve ultimate compliance. NHDES appreciates your effort to address all recognized deficiencies in order to protect New Hampshire's public health and environment.

Please contact Kevin Kaveny at (Kevin.J.Kaveny@des.nh.gov or 603-271-7380) as soon as the above deficiencies are corrected, or if you already have corrected them. Please also contact Mr. Kaveny or the undersigned if you have any questions regarding this Notice.

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:

Form S-04-003 – Annual Line Leak Detector Test Form for AST & UST Systems
Form S-04-035 – Annual Leak Monitoring Equipment Testing Form for UST Systems
Form S-04-036 – Triennial Containment Sump Test Form for UST Systems

cc: Manager, *DMS Fuels LLC*, 2830 Dartmouth College Highway, HAVERHILL, NH 03774

ec: NHDES Legal Unit, Attorney Kerry Barnsley
NHDES ORCB, Bob Bishop, Administrator
NHDES ORCB, Kevin Kaveny, Enforcement Section Supervisor
NHDES IRT List
HAVERHILL Health Officer, Lori Aldrich, health@haverhill-nh.com
Facility Class A and B Operator, Glen Meder, glenmeder@gmail.com