



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

Robert R. Scott, Commissioner



March 29, 2024

NOTICE OF INTENT TO RED-TAG

NHDES IRT #24-003

BY CERTIFIED MAIL #7018 0680 0000 7428 7763

BY EMAIL: TEJASPATEL1211@GMAIL.COM

TEJASKUMAR PATEL
RUHI, LLC
221 CENTRAL AVENUE
DOVER, NH 03820

Subject Site/Facility: **DOVER** – *Former D&M Mobil*, 221 Central Avenue
NHDES Site No. 199012028, UST Facility No. 0111679

Dear Mr. Patel:

This **NOTICE OF INTENT TO RED-TAG** (IRT) contains important information that affects the continued operation of UST Facility No. 0111679. 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 their 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, on April 13, 2021 NHDES staff conducted a routine Triennial compliance inspection of the UST system(s) at the Subject Site and subsequently provided you with a copy of the associated UST Facility Inspection Report (Report), dated April 13, 2021. In that Report, NHDES summarized discovered UST system operational 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. NHDES requested to receive all verifying information supporting deficiency correction within 45 days of that Report.

After not having received the above-mentioned verifying information in a timely manner and in advance of the preparation of this formal Notice of IRT, NHDES staff returned to the Facility on March 7, 2024 and performed a Survey to address the Facility's current non-compliance status and again requested that you take immediate action to correct all outstanding deficiencies. This Survey, dated March 8, 2024, was sent to you calling out:

1. Unresolved deficiencies from the April 13, 2021 triennial Facility Inspection Report;
2. Newly recognized test reporting obligations that are now past due; and
3. General observational deficiencies, including but not limited to, A & B operator training, UST permit postings, and UST system certificates.

www.des.nh.gov

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095
(603) 271-3899 • Fax: (603) 271-2181 • TDD Access: Relay NH 1-800-735-2964

Similar to the triennial Report, the recent Survey summarized the nature of the current UST system operational deficiencies, the applicable regulatory requirements, option(s) available for correcting the deficiencies, and the deadline for completion of the work. NHDES requested to receive all verifying information supporting deficiency correction(s) within 15 days of the Survey. As of the date of this Notice, **NHDES has not received all requested verifying information.**

If you have misplaced either the Report and/or the Survey, 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 “0111679” 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 and/or Survey.

Pursuant to specific guidelines in NH Statute RSA 146-C:15 ([Section 146-C:15 Red-Tagging Procedure](#)), NHDES has prepared this **NOTICE OF INTENT TO RED-TAG** to initiate formal proceedings to address your facility’s non-compliant status and instruct you to take immediate action to resolve all remaining deficiencies of Rule and Statute. If you do not correct the summarized deficiencies within **15 days** from the date of this Notice, NHDES STAFF WILL RETURN TO THE FACILITY AND AFFIX A DEDICATED RED-TAG TO EACH FILL PIPE of those below-mentioned UST system(s) that remain out of compliance. Affixing a Red-Tag to a fill pipe lawfully signifies **FUEL DELIVERY PROHIBITION** to that UST system, pursuant to RSA 146-C:14.

The deadline to achieve compliance is by the close of business on **(Monday), April 15, 2024**. Moreover, because the facility is not in compliance with RSA 146-C, reimbursement of cleanup costs through the NH 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 spill or release occurs.

As is presented in the most recent inspections, the following deficiencies pertaining to spill prevention, overfill protection, release detection, leak monitoring, and/or corrosion protection must be immediately resolved in order to avoid this pending Red-Tag event:

TANK #8 (Containing REGULAR with Capacity of 8,000 gallons)

- The NHDES inspector has determined the tank leak monitoring equipment was not tested annually for proper operation. **Verifying info PAST DUE February 25, 2022**
- The NHDES inspector has determined the piping leak monitoring equipment was not tested annually for proper operation. **Verifying info PAST DUE February 25, 2022**
- The NHDES inspector has determined the line leak detector was not tested annually for proper operation. **Verifying info PAST DUE February 25, 2022**
- The NHDES inspector has determined the fill pipe spill containment integrity testing has not been conducted. **Verifying info PAST DUE January 31, 2023**
- The NHDES inspector has determined the triennial primary containment tightness testing has not been conducted. **Verifying info PAST DUE February 25, 2024**
- The NHDES inspector has determined that the piping shows visual evidence of component deterioration, and that the system may not be liquid or vapor tight. **Verifying info PAST DUE March 25, 2024**
- The NHDES inspector determined that spill containment equipment for the vapor recovery dry break is not installed. **Verifying info PAST DUE October 14, 2021**

TANK #9 (Containing SUPER with Capacity of 6,000 gallons)

- The NHDES inspector has determined the tank leak monitoring equipment was not tested annually for proper operation. **Verifying info PAST DUE February 25, 2022**
- The NHDES inspector has determined the piping leak monitoring equipment was not tested annually for proper operation. **Verifying info PAST DUE February 25, 2022**
- The NHDES inspector has determined the line leak detector was not tested annually for proper operation. **Verifying info PAST DUE February 25, 2022**
- The NHDES inspector has determined the fill pipe spill containment integrity testing has not been conducted. **Verifying info PAST DUE January 31, 2023**
- The NHDES inspector has determined the triennial primary containment tightness testing has not been conducted. **Verifying info PAST DUE February 25, 2024**
- The NHDES inspector has determined that the piping shows visual evidence of component deterioration, and that the system may not be liquid or vapor tight. **Verifying info PAST DUE May 31, 2021**

DISPENSERS #1/2, 3/4, 5/6

- The NHDES inspector has determined the dispenser containment sump integrity testing has not been conducted. **Verifying info PAST DUE October 14, 2021**

TANK TOP SUMPS #8 & #9

- The NHDES inspector has determined the tank top containment sump integrity testing has not been conducted. **Verifying info PAST DUE October 14, 2021**

The below-mentioned GENERAL OBSERVATION deficiencies must also be resolved, but did not fall under the criteria by which **this red-tag procedure** was initiated. If these below-mentioned deficiencies are ignored, NHDES will consider supplemental enforcement actions.

GENERAL OBSERVATIONS

- The NHDES inspector determined monthly visual inspections have not been conducted. **Verifying info PAST DUE March 25, 2024**
- The NHDES inspector has determined a current listing of class C operator(s) is not posted per RSA 146-C:17, IV. **Verifying info PAST DUE March 25, 2024**
- The NHDES inspector has determined Operator Response Guidelines meeting the requirements of RSA 146-C:17, III and RSA 146-C:19, I are not posted. **Verifying info PAST DUE March 25, 2024**
- The NHDES inspector has determined the class A and B operators are currently overdue for recertification, as required by RSA 146-C:18(I). **Verifying info PAST DUE November 21, 2021**
- The NHDES inspector has determined the permit to operate is not posted, per Env-Or 404.08(a). **Verifying info PAST DUE March 25, 2024**
- The NHDES inspector has determined the UST tank certificate was not posted. **Verifying info PAST DUE March 25, 2024**

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 has the authority to pursue additional enforcement actions for all outstanding deficiencies, as well as any violations subsequently identified post inspections. 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 has the authority 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 Report or Survey 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.

Please resolve all deficiencies, including all General Observations of non-compliance. NHDES appreciates your effort to correct all recognized deficiencies, and would like to thank you in advance for your expected cooperation. Your efforts will serve to protect New Hampshire's public health, welfare, and environment. Pursuant to 146-C:15 IV, this non-compliant Facility shall be added to NHDES' currently published list of all red-tagged storage tanks and facilities in the state. Additionally with obligation, shall compel NHDES to notify all oil delivery companies who have requested to receive such notification, of this list change.

Please **UPLOAD ALL** equipment testing results and other verifying information to NHDES' One-Stop using this guidance document link: [NHDES Waste Management Division Submittal Guidelines](#). Should you have any questions regarding the content of this Notice of IRT, please contact Kevin Kaveny at Kevin.J.Kaveny@des.nh.gov or by phone at 603-271-7380.

Sincerely,



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

On-line Links for the Required NHDES Forms:

[NHDES - Application and Registration Forms](#)

[NHDES - AST and UST Testing Forms](#)

Form S-04-003 – Annual Line Leak Detector Test Form for AST & UST Systems

Form S-04-005 – Application for the Construction ...for a Substantially Modified UST System

Form S-04-024 – Stage 1 & Primary Containment Testing Form

Form S-04-028 – Tank and Piping Tightness Testing Form for AST & UST Systems

Form S-04-034 – Triennial Spill Containment Integrity Test Form for 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

Form S-04-027 – A/B Operator Statement of Training Record

cc: Manager, Former D&M Mobil, 221 Central Ave., DOVER, NH

ec: NHDES Legal Unit, Attorney Kerry Barnsley
NHDES ORCB, Robert Bishop, Administrator
NHDES ORCB, Kevin Kaveny, Enforcement Section Supervisor

DOVER Health Officer, Jaimie Donovan, j.donovan@doover.nh.gov