



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

Robert R. Scott, Commissioner



May 1, 2024

BY CERTIFIED MAIL #7018 0680 0000 7433 4047

BY EMAIL: cjstafford@staffordoil.com

NOTICE OF INTENT TO RED-TAG

NHDES IRT #24-004

Mr. Curtis Stafford
George C. Stafford & Sons, Inc.
231 Court Street
Laconia, NH 03247

Subject Site/Facility: **LACONIA – Terry Murphy's Court Street Auto**, 227 Court Street
NHDES Site No. 199602042, UST Facility No. 0111695

Dear Mr. Stafford:

This **NOTICE OF INTENT TO RED-TAG** (IRT) contains important information that affects the continued operation of UST Facility No. 0111695. 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, NHDES staff conducted a routine triennial compliance inspection of the UST system(s) at the Subject Site on August 18, 2022 and subsequently provided you with a copy of the completed UST Facility Inspection Report (Report), also dated August 18, 2022. 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 “0111695” 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.

On November 1, 2022, a Notice of Intent to Red-Tag was issued to the Facility as a result of the non-compliance observed during our August 2022 inspection. In that Notice, the Facility was allowed to continue to dispense fuel from non-compliant UST systems so as long as specific interim measures were taken to minimize the threat of release to the environment. At that time, it was agreed that these interim measures would provide an opportunity to extend fuel dispensing operations so as long as the non-compliant UST system components were repaired or replaced by the fall of 2023.

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After not having received evidence that these non-compliant UST system components have been properly repaired or replaced, the department is obligated to take action on your existing non-compliant UST systems, as there is no evidence to indicate that they have been brought back into compliance or that they have been permanently closed.

Therefore, 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** (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 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 day on **(Thursday), May 16, 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.

Based on the findings of our August 18, 2022 inspection and review of current NHDES submittal 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 in order to avoid this pending Red-Tag event:

TANK #7 (Containing REGULAR with Capacity of 12,000 gallons)

- The NHDES inspector determined that spill containment equipment for the vapor recovery dry break is not installed. Originally past due as of October 14, 2021 - **Verifying information PAST DUE as of October 3, 2022**

TANK #8 (Containing SUPER with Capacity of 10,000 gallons)

- The NHDES inspector determined that spill containment equipment for the vapor recovery dry break is not installed. Originally past due as of October 14, 2021 - **Verifying information PAST DUE as of October 3, 2022**

TANK #9B (Containing OFF ROAD DIESEL with Capacity of 3,000 gallons)

- The NHDES inspector determined the highest exit point of the drop tube is not within 4 to 6 inches from the bottom of the tank. **Verifying information PAST DUE as of October 3, 2022; PASSING TEST** on August 18, 2022, **but no explanation as to whether the drop tube was repaired or replaced.**

DISPENSER #1/2

- The NHDES inspector has determined the containment sump integrity testing for this dispenser sump has not been conducted. Interim extension allowance until Fall 2023; **Now past due**

DISPENSER #3/4

- The NHDES inspector has determined the containment sump integrity testing for this dispenser sump has not been conducted. Interim extension allowance until Fall 2023; **Now past due**

DISPENSER #5/6

- The NHDES inspector has determined the containment sump integrity testing for this dispenser sump has not been conducted. Interim extension allowance until Fall 2023; **Now past due**

DISPENSER #7/8

- The NHDES inspector has determined the containment sump integrity testing for this dispenser sump has not been conducted. Interim extension allowance until Fall 2023; **Now past due**

SUMP TANK TOP #7

- The NHDES inspector has determined the containment sump tightness test failed. **Verifying information PAST DUE as of October 3, 2022; PASSING TEST on October 19, 2022, but no explanation of how sump was repaired to allow for passing result.**

SUMP TANK TOP #8

- The NHDES inspector has determined the containment sump tightness test failed. **Verifying information PAST DUE as of October 3, 2022; PASSING TEST on October 19, 2022, but no explanation of how sump was repaired to allow for passing result.**

SUMP TANK TOP #9A

- The NHDES inspector has determined the containment sump tightness test failed. **Verifying information PAST DUE as of October 3, 2022; PASSING TEST on October 19, 2022, but no explanation of how sump was repaired to allow for passing result.**

SUMP TANK TOP #9B

- The NHDES inspector has determined the containment sump tightness test failed. **Verifying information PAST DUE as of October 3, 2022; PASSING TEST on October 19, 2022, but no explanation of how sump was repaired to allow for passing result.**

The below-mentioned GENERAL OBSERVATION and FILE REVIEW deficiencies must also be resolved, but did not fall under the criteria by which **this red-tag procedure** was initiated. These deficiencies either do not pertain to spill prevention, overfill protection, release detection, leak monitoring, and/or corrosion protection or the deadline to achieve compliance occurred after our August 18, 2022 inspection. If these below-mentioned deficiencies are ignored, NHDES will consider a follow-up on-site inspection which may be cause to issue supplemental enforcement actions.

GENERAL OBSERVATIONS & DATABASE FILE REVIEW (FR)

- **FR/** Class A Operator certifications expired **on 12/02/2023**

TANK #7 (Containing REGULAR with Capacity of 12,000 gallons)

- **FR/** Tank/Piping Leak Monitor Sensor Test **PAST DUE as of May 24, 2023**
- **FR/** Line Leak Detector Test **PAST DUE as of May 24, 2023**

TANK #8 (Containing SUPER with Capacity of 10,000 gallons)

- **FR/** Tank/Piping Leak Monitor Sensor Test **PAST DUE as of May 24, 2023**
- **FR/** Line Leak Detector Test **PAST DUE as of May 24, 2023**

TANK #9A (Containing DIESEL with Capacity of 7,000 gallons)

- **FR/** Tank/Piping Leak Monitor Sensor Test **PAST DUE as of May 24, 2023**
- **FR/** Line Leak Detector Test **PAST DUE as of May 24, 2023**

TANK #9B (Containing OFF ROAD DIESEL with Capacity of 3,000 gallons)

- **FR/** Tank/Piping Leak Monitor Sensor Test **PAST DUE as of May 24, 2023**
- **FR/** Line Leak Detector Test **PAST DUE as of May 24, 2023**

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 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 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 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 called out in the triennial Report, 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. The issuance of this Notice and any subsequent red-tagging event shall cause the department to modify the associated published lists of facilities that have non-compliant UST systems [DES Master Page \(state.nh.us\)](#). The department is also obligated by statute to notify all oil delivery companies of any list changes who have requested to receive such notification.

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 1-603-271-7374.

Sincerely,



Matthew A. Jones, Compliance & Enforcement Subsection Chief
Oil Compliance Section
Tel. No. 1-603 271-2986
Fax No. 1-603 271-2181
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 of a New or Substantially Modified UST System

Form S-04-030 – UST Closure Notification Form

Form S-04-033 – Triennial Overfill Prevention Device Testing Form for 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, Terry Murphy's Court Street Auto, 227 Court Street, Laconia, NH

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

Laconia Health Officer, Tim Joubert, tjoubert@laconianh.gov
Facility Class A Operator, Jeff Stone, jstone@staffordoil.com
Facility Class B Operator, Thomas Aselton, tomaselton@yahoo.com