



The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**



**Thomas S. Burack, Commissioner**

**Rep. D.L. Chris Christensen, Chairman**

***Oil Fund Disbursement Board***

March 25, 2010

The Honorable Martha Fuller Clark, Chairman  
Senate Energy, Environment and Economic Development Committee  
Room 102  
Legislative Office Building  
Concord, New Hampshire 03301

**SUBJECT: HB 1294, Relative to Underground Storage Facility Operator Training**

Dear Chairman Clark:

Thank you for the opportunity to testify on House Bill 1294, which establishes requirements for the training and certification of underground storage tank (UST) facility operators. The bill is supported by both the Department of Environmental Services (DES) and the Oil Fund Disbursement Board (Board). By ensuring adequately trained operators, this legislation will reduce the risk of new petroleum releases and minimize the impact to the environment if a release should occur. A reduction in new releases also lessens the long-term liability exposure for the Oil Discharge and Disposal Cleanup Fund administered by the Board.

The legislation amends RSA 146-C to establish requirements for training and certification of UST facility operators, written operator response guidelines, and monthly visual inspections at UST facilities. Operator training is required under the federal UST Compliance Act of 2005 to prevent releases of oil and hazardous substances. New Hampshire receives approximately \$1.1 million dollars in federal grants each year for UST program expenses, and is required to establish operator training requirements in order to continue receiving grants. Maintaining operational compliance is an existing requirement under RSA 146-C for all UST facility operators and owners. Written operator response guidelines and monthly visual inspections will improve compliance monitoring.

DES and the Board worked with the facility owners/operators, petroleum distributors, UST maintenance firms, the New England Interstate Water Pollution Control Commission (NEIWPPC) and the US Environmental Protection Agency (US EPA) to develop this legislation. The US EPA legal section has reviewed the language in the bill and has determined that the language meets the requirement of the federal UST Compliance Act. In an effort to provide consistency among New England states, NEIWPPC is using the New Hampshire draft as model legislation.

The bill provides flexibility by authorizing DES to certify training programs, giving UST operators multiple training options, ranging from the existing national training program provided by the International Code Council to in-house training programs developed by oil companies. In addition, DES has received a supplemental federal grant to provide classroom and on-line training at no cost to operators. A preliminary survey conducted by DES revealed that the cost charged by private training companies will range from \$150 to \$300 per participant.

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

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In summary, passage of House Bill 1294 is critical to maintaining the federal funding necessary to run the DES UST compliance and remediation programs. We encourage you to support this important bill.

It should be pointed out that UST operator training was introduced in the 2009 legislative session (HB 443) and was passed by the House. However, the Senate amended the 2009 proposed legislation to include requirements for guaranteed price plans and prepaid contracts for heating oil. The amended bill was passed by both the House and Senate. Ultimately, Governor Lynch vetoed HB 443 because the proposed legislation would impact residential and business consumers' ability to obtain the best price possible for heating oil. In vetoing the proposed legislation, the Governor stated the he fully supported establishing requirements for training operators of underground petroleum storage facilities (please see attached veto message dated July 17, 2009).

If you have any questions regarding this letter of testimony, please do not hesitate to contact Michael J. Wimsatt, P.G., Director of the Waste Management Division at (603) 271-2905 [Michael.Wimsatt@des.nh.gov](mailto:Michael.Wimsatt@des.nh.gov), or George Lombardo, P.E., Administrator of the Oil Remediation & Compliance Bureau at 271-3645 [George.Lombardo@des.nh.gov](mailto:George.Lombardo@des.nh.gov).

Sincerely,

Rep. D.L. Chris Christensen, Chairman  
Oil Fund Disbursement Board

  
For Thomas S. Burack, Commissioner  
Department of Environmental Services

Attachment

cc: Members of the House Resources, Recreation and Development Committee  
Sen. Robert J. Letourneau  
Rep. Richard W. Hinch  
Rep. Frank A. Tupper  
Rep. Leigh A. Webb  
Oil Fund Disbursement Board

Press  
Release

**For Immediate Release  
July 17, 2009**

**Contact:**  
Communications Director  
Office of the Governor  
603-271-2121

**Gov. Lynch's Veto Message Regarding HB 443**

By the authority vested in me, pursuant to part II, article 44 of the New Hampshire Constitution, on July 16, 2009, I vetoed HB 443, an act relative to underground storage facility operator training and relative to requirements for guaranteed price plans and prepaid contracts for petroleum.

I appreciate the general court's well-intentioned effort to strengthen protections for consumers of heating oil in this bill. I am concerned, however, that this bill may contain unintended consequences for consumers that will impact their ability to negotiate the best price possible for heating oil. Under current law, a prepaid or capped-price contract for heating oil cannot exceed a term of one heating oil season, and these contracts can be offered no earlier than January of the year in which the heating oil season begins. This bill would allow prepaid or capped-price contracts to be offered no earlier than May of the year in which the heating oil season begins. The proposed legislation would give consumers four months less time each year in which to enter into prepaid or capped-price contracts.

This proposed legislation was introduced in an effort to protect consumers who, on some occasions in the past, have paid monies in advance for home heating oil, and then did not receive the heating oil because the oil dealer went out of business before the next heating oil season. Nevertheless, I am not convinced that this bill is the proper solution to address the problem. I also question whether we should limit the pre-buy period between January and May. Many residential and business consumers of heating oil have indicated that, by shortening the window to offer these contracts, the proposed legislation will materially impact their ability to obtain the best price possible for heating oil. I believe this issue warrants further consideration by the general court. For this reason, I am vetoing HB 443.

I fully support establishing requirements for training operators of underground petroleum storage facilities as set forth in the first two sections of this bill.