



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

February 3, 2011

The Honorable Bob Odell, Chairman
Senate Energy and Natural Resources Committee
Room 115
State House
Concord, New Hampshire 03301

SUBJECT: SB 87- Relative to Closure of Certain Underground Storage Tank Systems

Dear Chairman Odell:

Thank you for the opportunity to testify on Senate Bill 87. Department of Environmental Services (DES) rule Env-Wm 1401.18(c) requires existing single wall underground storage tank systems without secondary containment and leak monitoring to be permanently closed by December 22, 2015. The bill proposes to waive this requirement for tank systems that have annual structural integrity testing and \$1 million of liability insurance for cleanup costs. DES is opposed to the bill as written because it would result in adverse impacts to environmental quality and public health and place additional, but otherwise avoidable, stress on the State's petroleum cleanup funds. We respectfully request that Committee members consider the following information:

- Single-wall underground storage tank (UST) systems without secondary containment and leak monitoring are *inferior technology and will leak*. It is important to distinguish between leak monitoring and leak testing. The first is preventive, while the latter is reactionary. Tanks with secondary containment provide for leak monitoring that will detect a leak in the primary tank prior to its release to the environment. By contrast, there is no leak testing method available, including the annual vacuum structural integrity tests as proposed in SB 87, which will prevent leaks or reduce the risk of leaks from single wall UST systems. The best available leak testing methods include an allowable loss factor, which means that leaks may still occur and not be detected for some time. In fact, DES has numerous cleanup projects where leaks were not detected by testing, but by petroleum contamination found in nearby water supply wells. The only proven method for eliminating the risk that a single-wall UST system will leak is closure or upgrade of the system. Single-wall UST systems containing motor fuel and heating oil are located in 162 communities at 581 locations. Thus, the contamination risk from single-wall USTs is statewide.
- It is not prudent to allow inferior UST systems to remain in operation, while relying on insurance to cover cleanup and restoration costs, as is proposed in the bill. First, the existence of insurance coverage does not address the risk to the state's groundwater that is posed by these systems. New Hampshire relies on clean groundwater as its primary source of drinking water. Once a release impacts groundwater, cleanup and restoration to meet drinking water quality standards is often a lengthy and expensive process. Second, this provision of the bill implies that there is readily available and affordable private insurance for single-wall UST systems. This is simply not the case, particularly for older systems. In practice, the insurance of choice for motor fuel UST owners in New Hampshire is the Oil Discharge and Disposal Cleanup (ODD) Fund under RSA 146-D, while that for heating oil UST owners is the Fuel Oil Discharge Cleanup Fund under RSA 146-E. In the absence of readily available or affordable private insurance, these funds,

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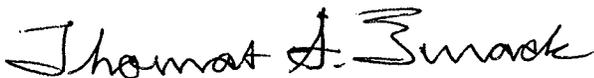
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which serve as excess insurance, are the sole insurer of these high-risk tank systems. Allowing owners of these systems to indefinitely delay closure or upgrade would further stress the resources of these funds, which are already in high demand.

- Single-wall UST systems are owned by businesses, fuel retailers, the State, local governments, and school districts. DES recognizes that the financial resources of these owners are also diverse, and in many cases are limited. SB 87 may reduce short term costs to owners by allowing testing in lieu of closure or upgrade. However, by December 22, 2015, all single-wall USTs will have been in operation for 30 years or longer, many with associated piping that is equally as old. Thirty years is the standard industry life expectancy for single-wall USTs. Thus, future closure or replacement is unavoidable and the longer it is delayed, the higher the risk of leaks and the higher the associated costs. It is important to understand there is a range of costs to achieve compliance with Env-Wm 1401.18(c), and 80% of non-compliant systems only require piping closures or upgrades, which typically are less costly than complete tank closures or upgrades.
- Based on the goal of reducing groundwater contamination risk and avoiding cleanup and associated high costs, DES adopted Env-Wm 1401.18(c) in 1997, and has worked with UST owners to facilitate closure of inferior systems. Since the rule became effective 14 years ago, many UST owners have completed and borne the costs of closure of their single-wall systems. Many current owners of these systems have planned for closure by the 2015 deadline and have allocated funds for this purpose, recognizing the inherent risk and liability that operation of these systems represents. We believe there is some misunderstanding about the 2015 deadline among owners who have not planned accordingly, on what is specifically needed to comply with the rule. DES stands ready to work with these owners to find workable solutions to achieving compliance.

In summary, we are greatly concerned that SB 87 will delay UST system closures, unduly putting the state's groundwater at risk, and placing increased stresses on the state's petroleum reimbursement funds. At the same time, we remain committed to working with tank system owners to help them achieve compliance with the 2015 deadline. Thank you for your careful consideration of this important bill. If you have questions, please contact Michael Wimsatt, Director of the Waste Management Division at (603) 271-2905 Michael.Wimsatt@des.nh.gov,

Sincerely,



Thomas S. Burack, Commissioner
Department of Environmental Services

cc: Members of the Energy and Natural Resources Committee
Rep. Chris Christensen, Chair, Oil Fund Disbursement Board