



The State of New Hampshire  
**Department of Environmental Services**

**Thomas S. Burack, Commissioner**

*Celebrating 25 Years of Protecting  
New Hampshire's Environment*



January 26, 2012

The Honorable Gary Daniels, Chairman  
House Labor, Industrial and Rehabilitative Services Committee  
Room 307  
Legislative Office Building  
Concord, New Hampshire 03301

Subject: HB1661, Relative to Self Certification of Spill Prevention, Control, and Countermeasure (SPCC) Plans for Aboveground Petroleum Storage Tank (AST) Facilities.

Dear Chairman Daniels:

Thank you for the opportunity to testify on HB 1661. Department of Environmental Services rule Env-Wm 1402.30 requires that owners of aboveground petroleum storage tanks have their Spill Prevention, Control and Countermeasures ("SPCC") plans certified by a licensed professional engineer. This bill would allow certain qualifying tank owners to self-certify their SPCC plans in lieu of professional certification. DES is opposed to the bill as written because it would increase the likelihood of adverse impacts on environmental quality and public health, and place additional stress on the State's petroleum cleanup funds. However, DES would support the amendment that would allow for self-certification for a slightly smaller group of lower-risk facilities as described below. We respectfully request that Committee members consider the following information and an amendment that would address DES's concerns.

An SPCC Plan is a written document establishing release prevention measures and effective response procedures for releases from aboveground storage tank ("AST") systems. SPCC plans involve vital advance planning that minimizes the potential for discharges and provides for effective response to releases of petroleum products. Professional preparation and certification of such plans serves to ensure the best possible protection, particularly for higher risk tanks, such as those storing gasoline.

This bill proposes to allow self-certification for facilities that meet the federal definition of a "Tier 1 qualified facility." Federal regulations define a Tier 1 qualified facility as one having no individual AST with a capacity greater than 5,000 gallons, an aggregate storage capacity of 10,000 gallons or less, and a limited record of past discharges. DES is concerned that allowing facilities of up to 10,000 gallons capacity to self-certify their SPCC plans would greatly increase environmental and health risks and pose a financial burden on the state cleanup funds authorized under RSA 146-D, E and F. (These funds provide reimbursement to eligible tank owners for costs incurred to investigate and clean up petroleum releases.) While the bill proposes to mirror federal standards for these tanks, the federal regulations do not take into account New Hampshire's relatively shallow groundwater and extensive reliance on groundwater as a source of drinking water.

In the New Hampshire setting, self-certification would be more appropriately used at facilities with lower aggregate petroleum storage capacity than the federal Tier I definition, and with a significantly lower specific threshold for gasoline storage. As set out in the proposed amendment, DES believes that self-certification by facilities having less than 5,000 gallons aggregate capacity of any petroleum product, and less than 660 gallons of gasoline storage capacity are more appropriate thresholds for New Hampshire. We believe that the lower threshold for gasoline is important because of gasoline's higher toxicity and higher potential to quickly migrate through soil and impact groundwater quality, relative to fuel oils and motor oils. These lower thresholds will substantially reduce the risk to the environment and still provide economic relief to the vast majority of small businesses. Of the 520 existing facilities that meet the Tier I definition, approximately 400 also meet these proposed lower thresholds.

It should be noted that the cost savings will be realized only by new facilities and by facilities that choose to make significant modifications to their existing regulated AST facilities. (Existing facility owners have already incurred the cost of a professional engineer certification.) In a typical year, approximately 50 regulated AST facilities need a new or revised SPCC plan because they are either newly constructed or substantially modified. Of the 50, approximately half (25) would meet the Tier I definition, while approximately 19 would meet the DES-proposed lower thresholds. Professional engineers generally charge between \$800 and \$3,000 to develop and certify an SPCC plan for an individual facility, depending on facility size and complexity. Therefore the estimated difference in total statewide cost savings between facilities that meet the federal definition and those that meet the DES-proposed threshold would range from \$4,800 to \$18,000 per year. These cost savings would be easily exceeded by the cleanup cost associated with a single discharge from such a facility. For example, the loss of 1,525 gallons of diesel fuel at a Milford convenience store facility in 2009 resulted in cleanup costs of approximately \$85,000.

In summary, DES is concerned that HB 1661 as written will unduly put the state's groundwater and surface waters at risk, and place increased stresses on the state's petroleum cleanup funds. We believe that an amendment as described in this letter would strike an appropriate balance between vital environmental and public health protections and efforts to reduce costs for small businesses. Thank you for your careful consideration of this important bill. If you have any questions or require additional information please contact Michael J. Wimsatt, P.G., Director, Waste Management Division at (603) 271-2905 [michael.wimsatt@des.nh.gov](mailto:michael.wimsatt@des.nh.gov).

Sincerely,



Thomas S. Burack, Commissioner  
Department of Environmental Services

cc: Representative Paul Mirski  
Representative Carl Seidel  
Representative John Cebrowski  
Committee Members