



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

February 12, 2013

The Honorable Shannon Chandley, Chair
House Resources, Recreation and Development Committee
Room 305
Legislative Office Building
Concord, New Hampshire 03301

SUBJECT: HB628, Relative to Underground Storage Tank and Above Ground Storage Tank Certification

Dear Chairman Chandley:

Thank you for the opportunity to testify regarding HB628. This bill would significantly modify important training, examination, and certification requirements pertaining to underground storage tank (UST) and aboveground storage tank (AST) contractors. These certification requirements were established to ensure an appropriate level of knowledge and expertise for contractors and professionals designing, installing, retrofitting, decommissioning, and testing UST and AST systems storing petroleum and hazardous substances. The bill would unnecessarily transfer the responsibility for providing training and recertification from qualified national organizations to the Department of Environmental Services (DES). DES firmly opposes this bill due to concerns about safety, environmental protection, and the ability to effectively implement its provisions.

DES adopted NACE International (formerly National Association of Corrosion Engineers, or NACE) certification requirements in 1885, and International Code Council (ICC) certification requirements in 1997, in order to advance the expertise of tank contractors and improve the quality of tank system design, installation, testing, maintenance and closure in our state. Following adoption of these requirements, DES has indeed witnessed a significant and sustained increase in the quality of work performed by tank system contractors. DES believes that the provisions of this bill could significantly erode this progress, and threaten the quality of these tank systems that are so vital to life safety and protection of the environment.

HB628 seeks to eliminate ICC and NACE contractor recertification requirements for all referenced contractors in the UST and AST administrative rules. While initial ICC and NACE examination and certification would still be required, subsequent training and recertification would become the responsibility of DES instead of ICC and NACE. Under the bill's provisions, DES must establish educational requirements for recertification, and either provide the training or identify equivalent outside training. Currently, DES has neither the qualified staff nor the resources to provide this training. Further, the proposed additional educational requirements would likely increase the regulatory burden on tank system contractors.

The bill seeks to eliminate the requirement of an ICC or NACE examination to obtain renewal of UST and AST certificates. DES believes an examination is necessary to demonstrate the appropriate level of knowledge for recertification due to inevitable changes in equipment and procedures over time.

DES notes that in response to past inquiries from the bill's sponsor, DES had concluded it could support limited revision of the UST and AST administrative rules to recognize a 2 year ICC UST or AST Installation/Retrofitting certificate for a period of 5 years. These changes would effectively reduce the contractor training burden for tank installers and retrofitters, requiring certification every five years, instead of every two years. DES is prepared to undertake these limited administrative rule revisions because the existing rules also require tank installers to obtain all manufacturers' certifications, and DES believes that the longer recertification period would not result in an increased risk to public health or the environment. These changes are included in the current UST rulemaking initial proposal (IP) that has already been filed, and is similarly planned for the AST IP scheduled for this year. However, the sweeping changes proposed in HB 628 are much broader in scope, and DES believes that they would result in adverse impacts.

In summary, DES believes that NACE and ICC are much better suited than DES to develop and administer tank system training and certification programs. These national organizations have a well-established infrastructure to continually update their course material and offer the required training in a cost effective manner and at a frequency that is convenient to contractors. Requiring DES to develop and maintain its own contractor training and certification program would impose an unnecessary burden and cost upon DES, as well as an increased regulatory burden on the contractors. Additionally, it would be difficult, if not impossible, for DES to offer the same training and testing schedule flexibility to contractors that is currently offered by NACE and ICC. We believe that the bill could result in an overall diminished quality of work performed by tank system contractors, and would ultimately impose an undue risk to life safety and the environment. For all of these reasons, DES strongly opposes this bill..

Thank you for your careful consideration of this testimony. If you have questions or require additional information, please contact Director Michael Wimsatt of the Waste Management Division at (603) 271-2905 or Michael.Wimsatt@des.nh.gov, or Michael Juranty at (603) 271-6058 or michael.juranty@des.nh.gov

Sincerely,



 Thomas S. Burack, Commissioner
Department of Environmental Services

cc: Members of the Resources, Recreation and Development Committee