

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nine

AN ACT relative to underground storage facility operator training and relative to requirements for guaranteed price plans and prepaid contracts for petroleum.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Paragraphs; Definitions. Amend RSA 146-C:1 by inserting after paragraph XIII the following new paragraphs:

XIII-a. "Class A operator" means the individual or individuals designated by the owner to have primary statutory and regulatory responsibility for the operation and maintenance of the facility. The "class A operator" may hold more than one class of operator position.

XIII-b. "Class B operator" means the individual or individuals designated by the owner to implement applicable regulatory requirements and implement the daily aspects of the operation, maintenance, and recordkeeping for the facility. The "class B operator" may hold more than one class of operator position.

XIII-c. "Class C operator" means the individual or individuals designated by the owner to have primary responsibility for responding to alarms, emergencies presented by spills or releases, and other problems associated with the operation of the facility. The "class C operator" may hold more than one class of operator position.

XIII-d. "Approved training program" means an operator training program meeting the requirements of RSA 146-C:18.

2 New Sections; Operator Training Requirements. Amend RSA 146-C by inserting after section 16 the following new sections:

146-C:17 Operator Training Required.

I. Effective August 8, 2012, no person shall operate an underground storage facility without designated class A, B, and C operators who have been trained and certified in accordance with an approved training program.

II.(a) By August 8, 2012, owners of then existing facilities shall submit to the department for each underground storage facility owned in the state a statement signed by both the owner and the designated operators in a format approved by the department identifying the designated class A and B operators, the name of the approved training program by which they are trained, the date that they were certified by the approved training program, and the expiration date regarding their certification.

(b) For facilities that begin operation after August 8, 2012, this information shall be submitted prior to beginning operation.

III. Effective August 8, 2012, owners shall post at each underground storage facility operator response guidelines meeting the requirements of RSA 146-C:19, I.

IV. Effective August 8, 2012, owners shall post at each underground storage facility, and revise when changes occur, a listing of class C operators assigned to that

facility that includes the latest date of training, the expiration date regarding the training, and an identification of the approved training program or the name of the certified class A or B operator that trained each class C operator.

V. After August 8, 2012, owners shall revise and resubmit to the department a signed statement that includes the information required in paragraph II whenever there is a change in designated class A or B operators, a change of approved training programs, or when a designated operator has been retrained as ordered by the department pursuant to RSA 146-C:21, within 30 days of the change for each affected underground storage facility.

VI. After August 8, 2012, newly designated class A and B operators shall be trained in accordance with an approved training program within 30 days of being designated. Newly designated class C operators shall be trained in accordance with an approved training program or by a certified class A or B operator before assuming the responsibilities of the class C operator.

VII. Class A, B, and C operators who have been trained and certified by an approved operator training program that has since had its approval revoked pursuant to RSA 146-C:20 shall remain trained and certified unless they are directed by the department to retrain pursuant to RSA 146-C:21 or their certification expires pursuant to the previously approved training program curriculum.

146-C:18 Operator Training Program Requirements. An operator training program may be provided by the department, approved by the department pursuant to paragraph I or paragraph III, or deemed approved pursuant to paragraph II, to meet the requirements of this section. The department may charge a fee to cover expenses for operator training that are not paid by federal grants.

I. An operator training program shall be approved in writing by the department. The department shall approve a program if after submittal of the training curriculum and instructor's qualification to the department for review, the department finds that it meets the following minimum requirements:

(a) Class A operator training shall include:

(1) Familiarization with applicable state statutes and regulations as they specifically apply to facility registration and permitting, financial responsibility documentation requirements, spill prevention, overfill prevention, release detection, corrosion protection, emergency response, product compatibility, notification requirements, release and suspected release reporting, temporary and permanent closure requirements, and operator training.

(2) Certification that the operator has passed an appropriately administered and evaluated test demonstrating such knowledge.

(3) After the initial training, at least biennial retraining.

(b) Class B operator training shall include:

(1) Familiarization with the implementation of applicable statutes and regulations.

(2) Familiarization with components of underground storage facilities, material of underground storage facility components, methods of underground storage facility release detection and release prevention, underground storage facility spill

prevention, overfill prevention, release detection, corrosion protection, emergency response, product compatibility, reporting and recordkeeping requirements, and class C operator requirements.

(3) Familiarization with conducting and documenting monthly maintenance inspections pursuant to RSA 146-C:19 and yearly maintenance inspections as applicable.

(4) Certification that the operator has passed an appropriately administered and evaluated test demonstrating such knowledge.

(5) After the initial training, at least biennial retraining.

(c) Class C operator training shall include:

(1) Familiarization with taking the appropriate action pursuant to operator response guidelines in responding to emergencies and alarms.

(2) Familiarization with the facility layout.

(3) Familiarization with reading alarm enunciation panels.

(4) Certification of understanding signed by the operator and trainer.

(5) After the initial training, at least biennial retraining.

II. The following operator training programs shall be deemed approved by the department:

(a) For class A operator training, current certification as an underground storage facility operator by the International Code Council.

(b) For class B operator training, current certification as an underground storage facility system installer or retrofitter by the International Code Council.

(c) For class C operator training, an operator trained to take appropriate action pursuant to the posted operator response guidelines in responding to emergencies and alarms, given a physical tour of the facility, and trained in reading the alarm enunciation panel by the designated trained class A or B operator at the facility; provided that, after the initial training, there is at least biennial retraining or refresher training.

III. The department may approve operator training programs conducted or approved by other states as meeting New Hampshire requirements.

IV. Nothing in this section shall prohibit or prevent a class A, B, or C operator from training additional facility employees to assist with the class C operator's responsibilities for responding to alarms, emergencies presented by spills or releases, and other problems associated with the operation of the facility.

146-C:19 Additional Operator Requirements.

I. Written operator response guidelines shall include spill reporting procedures, contact phone numbers, malfunctioning equipment lock-out/tag-out and notification procedures, and initial mitigation protocol for emergencies.

II. Monthly visual inspections meeting the following minimum requirements shall be conducted at all underground storage facilities:

(a) Inspections shall be conducted by or under the direction of the class A or B operator.

(b) The results of each inspection shall be recorded in a monthly inspection report. The records shall be maintained and made available for department inspection and copying for a period of not less than 3 years.

(c) The following items shall be inspected and shall be reported on the inspection report as no defect, defect, and how any defect was resolved:

(1) Inspect all vent risers for visible damage and repair as necessary.

(2) Inspect each pressure/vacuum vent cap and if the cap is missing or damaged, replace the cap.

(3) Inspect each spill bucket for the presence of oil, water, or debris; remove and dispose of any oil, water, or debris in accordance with all applicable federal, state, and local requirements; and repair each spill bucket as necessary.

(4) Inspect each coaxial fill adaptor cap, 2-point fill adaptor cap, and dry break adaptor cap for looseness, the presence of a gasket, and tightness of fit, and tighten, repair, or replace as necessary.

(5) Inspect each coaxial fill adaptor, 2-point fill adaptor, and dry break adaptor for tightness of fit, and tighten or replace as necessary.

(6) Inspect each dry break poppet valve for a continuous seal, that it depresses evenly across the valve seat, and that it reseats properly and if not, repair or replace as necessary.

(7) Inspect each motor fuel dispenser hose for tears, leaks, holes, kinks, crimps, or defects of any kind and replace as necessary.

(8) Inspect each motor fuel dispenser nozzle for leaks, obstruction of vapor recovery holes, or defects of any kind and replace as necessary.

(9) Inspect each motor fuel dispenser cabinet interior for leaking components and the presence of oil, water, or debris; remove and dispose of any oil, water, or debris in accordance with all applicable federal, state, and local requirements; and repair each component as necessary. If a motor fuel dispenser cabinet interior has a liquid-tight containment sump with continuous leak detection monitoring provided by either a dispenser sump sensor or the attached piping sump sensor, the motor fuel dispenser cabinet interior inspection may be conducted annually and the results reported in the associated monthly inspection report.

(10) Inspect each oil transfer and dispensing area for the presence of oil spills and report and remediate any spill in accordance with all applicable federal, state, and local requirements.

(11) Inspect each alarm enunciation panel for proper operation of product monitoring and leak detection systems and repair or replace system components as necessary.

(d) Deficiencies discovered during the visual inspection shall be repaired or otherwise resolved within 30 days.

III. The class B operator shall ensure that tanks, pumps, and appurtenances that will

store or dispense oil are compatible with the oil or oil blends to be stored or dispensed.

IV. Delegation of the responsibilities of this section to designated operators shall not relieve the owner from liability for non-compliance with the requirements of this section.

146-C:20 Revocation of Operator Training Program Approval.

I. If the department determines that an approved operator training program has proven insufficient to adequately train operators as evidenced by inadequately trained operators, significant operational compliance issues, or inability to document that training has been provided, then the department shall revoke the approval of the operator training program.

II. An operator training program may be re-approved if it is demonstrated that all operator training program defects have been corrected and if a revised curriculum and instructor's qualification is submitted to the department and meets the requirements of RSA 146-C:18.

III. An approved operator training program may withdraw as an approved operator training program by making such a request in writing to the department.

146-C:21 Repeating Operator Training. If the department determines that a facility is not in significant operational compliance with the release prevention and release detection measures of applicable state rules and statutes, or other requirements of this chapter or the implementing regulations, then the department shall direct that the responsible class A or B operator be retrained and recertified in accordance with an approved training program, within 30 days or within such other time as the department specifies.

3 Requirements for Guaranteed Price Plans and Prepaid Contracts for Petroleum. Amend RSA 339:79, III(a) to read as follows:

(a) Shall not require consumers to commit for a term of more than one heating oil season. Such contracts shall be offered no earlier than ~~[January]~~ **May** 1 of the year in which the heating oil season begins.

4 Requirements for Guaranteed Price Plans and Prepaid Contracts for Petroleum. Amend RSA 339:79, IV(a) to read as follows:

(a) A firm commitment in the form of a futures contract or other commitment that guarantees that the dealer ~~[may]~~ **shall** purchase, at a fixed price, heating oil, kerosene, or liquefied petroleum gas in an amount not less than 75 percent of the maximum number of gallons that the dealer is committed to deliver pursuant to all prepaid contracts entered into by the dealer. The amount of such futures contract may be reduced to reflect any amount of home heating oil, kerosene, or liquefied petroleum gas already delivered to and paid for by the consumer;

5 Effective Date.

I. Sections 1 and 2 of this act shall take effect July 1, 2009.

II. The remainder of this act shall take effect upon its passage.