

# Risk-Based Enforcement Approach



**September 2018**

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NH Department of Environmental Services



# Why?



**Leaky tank systems pose risks, contaminating both groundwater and surface waters.**



# Why?



**60% of New Hampshire's residents depend on groundwater for their drinking water supply**

# Why?



**Protect and restore the environment and public health in New Hampshire.**

# Why?



**Prevent** and **minimize** contamination  
of land and water



# Why?



**Single-walled components often leak for long periods of time before detection.**



# Why?



**If groundwater monitoring is used for detection,  
it is too late to prevent contamination.**



# Why?



By AlexiusHoratius - Own work

**Economic growth depends on good  
environmental stewardship**



# Single-wall deadline



**Described in:**

NH Admin.  
Rule

Env-Or  
408.05(c)

**In effect since:**

**1997**

# Required permanent closure



All single-walled UST systems without secondary containment and leak monitoring



# When?

## DECEMBER 2015

SUN	MON	TUE	WED	THU	FRI	SAT
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

**Deadline:** December 22, 2015

# How?



**Minimize leaks, spills, and discharges**



# UST Operator Training



**NHDES** conducts **monthly UST Operator Trainings**

# Education and Outreach



Sent letters to ALL facility owners BEFORE the  
December 22<sup>nd</sup> deadline



# Friendly Reminders



**All tanks and piping must be double-walled  
with leak monitoring**

# Friendly Reminders



## Underground / Aboveground Storage Tank Closure Notification Form Oil Remediation and Compliance Bureau



RSA 146-A & C; ENV-OR 300 & 400

NHDES-S-04-030

<b>1. Person Reporting Notification</b>	
Name:	Date:
Address:	Initial:
Phone:	Email:
<b>2. Facility Information</b>	
NHDES Site #	Facility ID #
Name:	
Address:	
<b>3. Owner Information</b>	
Name:	
Address:	
Phone:	Email:

**Closure notification** must be submitted **30 days prior**



# Friendly Reminders



**Plan approval** required for **installing new systems** or **upgrading existing systems**

# Build Internal Support



It takes a **great team** with **support** from **leadership!**



# Compliance Strategy



# When?

## DECEMBER 2015

SUN	MON	TUE	WED	THU	FRI	SAT
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13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

**Deadline:** December 22, 2015

# Non-compliant USTs

as of March 31, 2016

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**11%**

tank systems

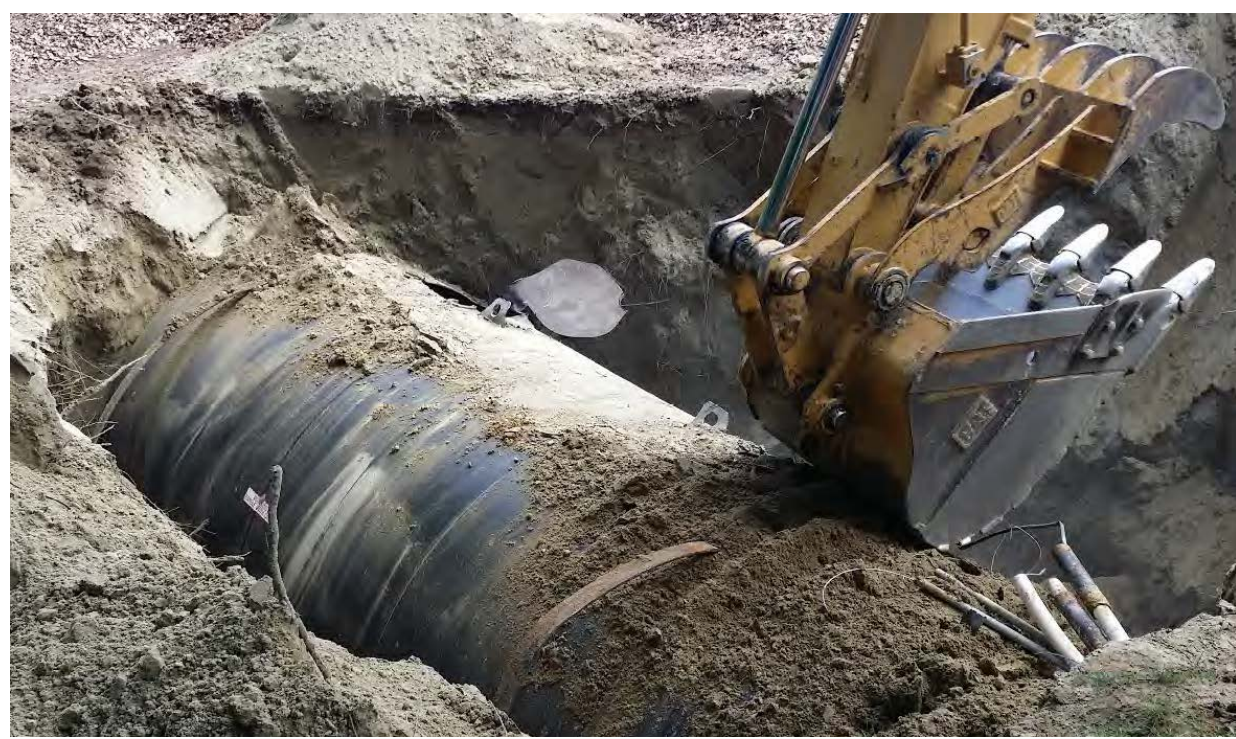
**DID NOT MEET DEADLINE  
REQUIREMENTS**



# Non-compliant USTs

as of March 31, 2016

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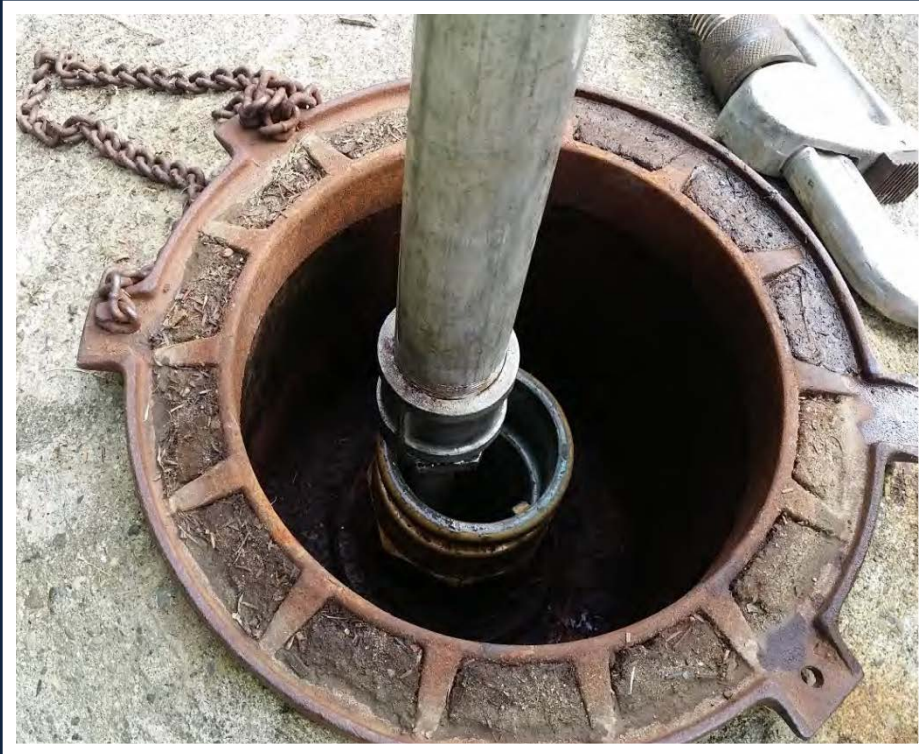
1%

37  
tanks

# Non-compliant USTs

as of March 31, 2016

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10%

354

pipng/sump/  
leak monitoring

# Workload Balance



Photo by: Mbiana, May 5, 2012

**Partnered with local law school for FREE legal intern!**



# Environmental Risk-Based Approach



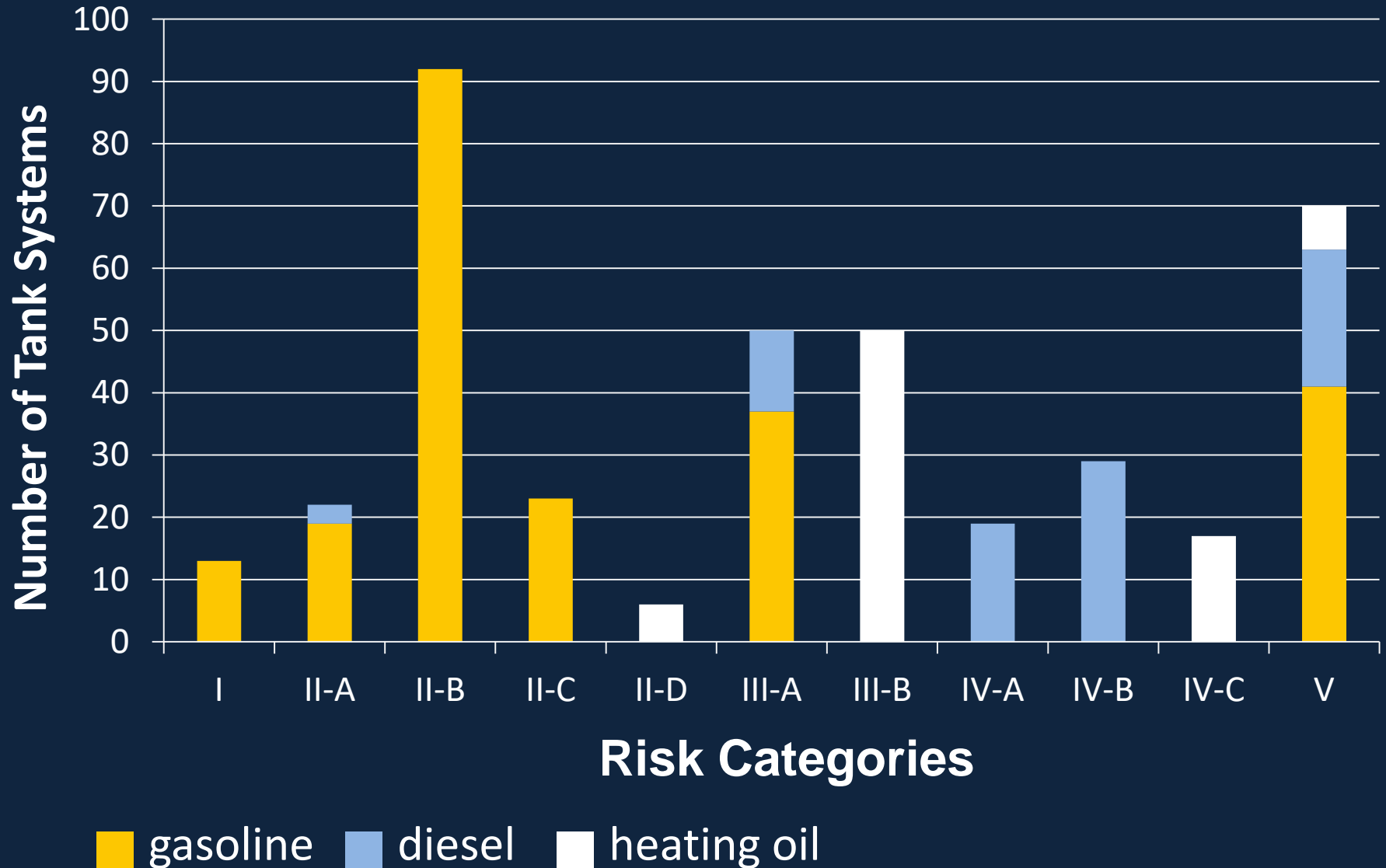
11 categories

Greatest



Lowest

# Compliance Strategy Categories



# Compliance Strategy



Three-tiered approach to achieve temporary  
and permanent closure



Tier 1

# Notice of Intent to Red-Tag



DO NOT FILL TANK

# Steps for Compliance



By Eric Jones, CC BY-SA 2.0,  
<https://commons.wikimedia.org/w/index.php?curid=14186269>



# Interim Steps



Remove regulated substances; equip each opening with a lock; and submit UST registration form

# Steps to Achieve Full Compliance



## Underground / Aboveground Storage Tank Closure Notification Form Oil Remediation and Compliance Bureau



RSA 146-A & C; ENV-OR 300 & 400

NHDES-S-04-030

<b>1. Person Reporting Notification</b>	
Name:	Date:
Address:	Initial:
Phone:	Email:
<b>2. Facility Information</b>	
NHDES Site #	Facility ID #
Name:	
Address:	
<b>3. Owner Information</b>	
Name:	
Address:	
Phone:	Email:

Submit closure notification; permanently close non-compliant systems; and submit closure report

# Compliance Achieved\*



(\*for the Majority of Sites)



Tier 2

# Administrative Orders/ Administrative Orders by Consent



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

Robert R. Scott, Commissioner



Falling Leaf  
Attn. Authority Figure  
36 Birch Road  
Someplace, NH 03000

Re: Non-Compliant UST

**NOTICE OF COMPLIANCE  
FOR  
ADMINISTRATIVE ORDER  
BY CONSENT  
No. 16-008 WMD**

October 23, 2017

The Department of Environmental Services, Waste Management Division ("DES") issued Administrative Order No. 16-008 WMD, dated March 28, 2016 (the "Order") to, and with the consent of, \_\_\_\_\_ based on violations of RSA 146-C. and Env-Or 408. associated with the registered underground storage tanks at \_\_\_\_\_, New Hampshire. Based on DES's determination that compliance with the Order has been achieved, DES issues this Notice of Compliance for the Order.

This Notice does not release any party from liability for penalties to which they may be subject for violations identified in the Order.

Robert R. Scott, Commissioner  
Department of Environmental Services

Tier 3



# Referral for Enforcement



Attorney General's Office for  
injunctive relief and civil penalties

# Last single-wall UST



Permanently closed on March 10, 2017

# Lessons Learned



Conduct education and outreach early and often!



# Lessons Learned



Clearly communicate requirements and timeframes with owners and operators.



# Lessons Learned



Timely follow-up is critical!

# Lessons Learned



Be professional, but firm!

# Conclusion



Use enforcement only when needed, and apply it consistently and fairly to level the playing field.

# Thank you for your time!

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Environmental Services

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