

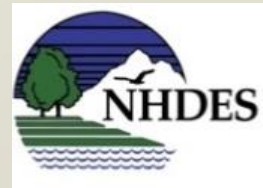
NHDES' INTERIM CONDITIONAL EXTENSION ALLOWANCE (ICEA) FOR TANK TOP & UDC SUMP REPAIR / REPLACEMENT



New Hampshire Department of Environmental Services
Waste Management Division - Oil Compliance Section



Prepared by Kevin J. Kaveny, Enforcement Section Supervisor



PHOTOS OF FAILING SUMPS



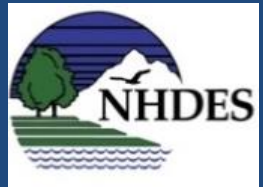




Requirements for Testing Sumps

Env-Or 406.14

NHDES Rules: Env-Or 400 – Effective October 10, 2018

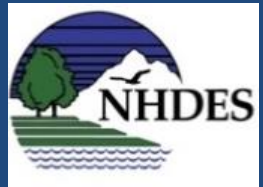


Env-Or 406.14 Containment Sump Integrity Testing.

- Test at the TIME OF INSTALLATION
- Test no later than **October 13, 2021** & triennially thereafter
- **Exemptions –**
 - Sumps connected to USTs storing **heating oil for on-premise use.**
 - **Double walled sumps inspected annually** & the recorded notes of which are made available during inspections.
 - Sumps that have **de-energizing sensors** installed which are tested annually as part of the ALM. Needs to show up on each applicable ALM testing form!!

Hydrostatic Tests for Sumps

Env-Or 406.15



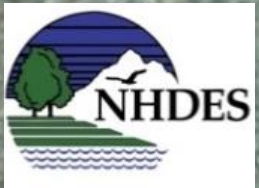
Env-Or 406.15 Hydrostatic Tightness Test for Sumps

- Test only after all seams, fittings, piping, and conduits are completed (installation) or visually competent (post installation).
- 1 – inch from the top or 10-inches above highest penetration fitting, whichever is lower.
- Record liquid level at the beginning & end of the test.
- 3-hour duration.

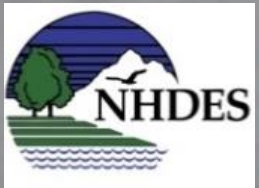


- There shall be no additional water added during the test.





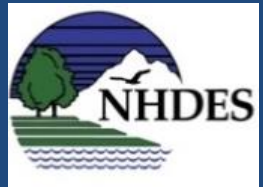




Reporting Test Failures & Repair/Replacement Allowances

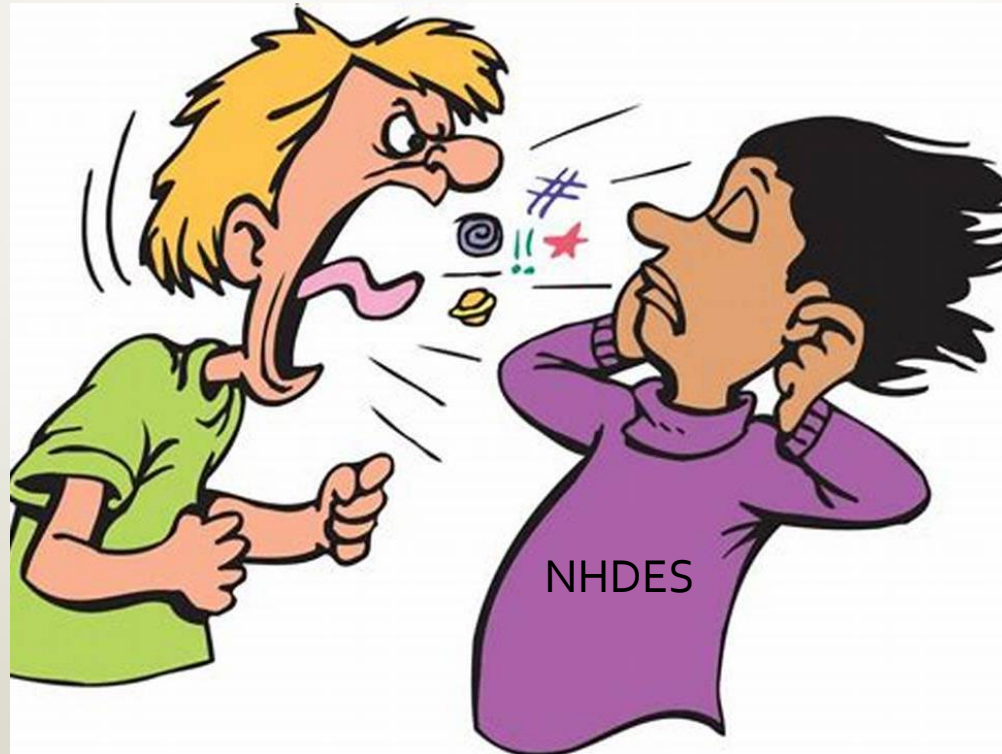
Env-Or 406.08

Env-Or 408.03



Env-Or 406.08 Test Failures.

- The **tester** must provide IMMEDIATE NOTIFICATION to NHDES and also immediate notification to the owner.



Env-Or 406.08 Test Failures.

- The owner shall investigate the cause of failure within 30 days and determine whether there needs to be a repair or replacement.

...and

- **Either –**
 - Repair or replace the sump.
 - Temporarily close the affected UST system(s).

Env-Or 406.08 Test Failures.

HERE IS WHERE THE PROBLEM OCCURS



Env-Or 408.03 Repair and Replacement of Underground Piping, Containment Sumps, and Spill Containment.

- **Replacement** Timelines
 - Retain an Engineer to prepare a substantial mod. app. (1-2 mos.)
 - Submit engineering plans to NHDES for review; (3 mos. for review)
 - Back and forth between Engineer and NHDES (1 mo.)



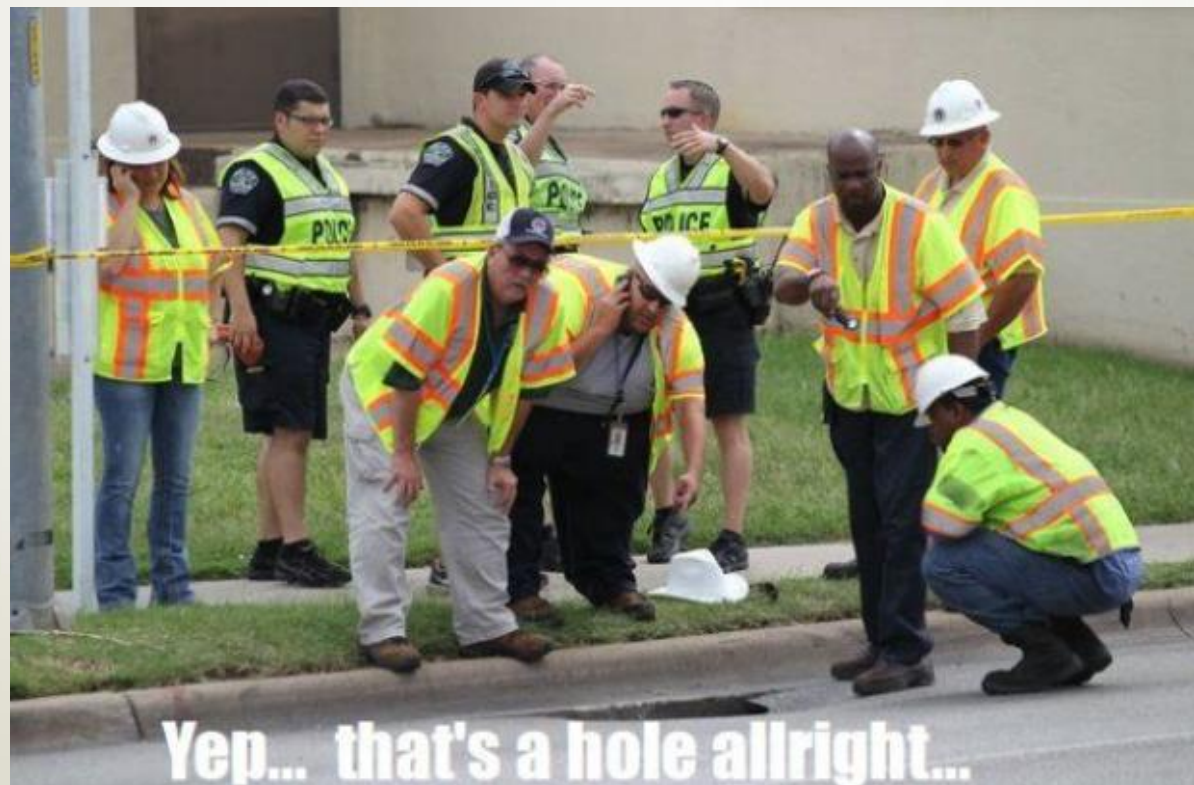
Env-Or 408.03 Repair and Replacement of Underground Piping, Containment Sumps, and Spill Containment.

- Retain “Certified Tank Remover” to permanently close failed sump / Site Assessment. NH-34, ME-9, VT-5, MA-25, RI-1, CT-4
- Retain “Certified Tank Installer” to install new sump (1 mo.); likely going back in same location. NH-17, ME-8, VT-3, MA-29, RI-1, CT-4



Env-Or 408.03 Repair and Replacement of Underground Piping, Containment Sumps, and Spill Containment.

- Coordinate w/ NHDES for pre- and post-backfill inspections (1 mo.)



!! 6 MONTHS !!

Env-Or 408.03 Repair and Replacement of Underground Piping, Containment Sumps, and Spill Containment.

- It seems that our own statutory and regulatory timelines might force delivery prohibition for SEVERAL months !!



REPAIRS:

NHDES **does not allow** sealants to be applied as a means to repair penetration fittings or structural compromises in the sump.



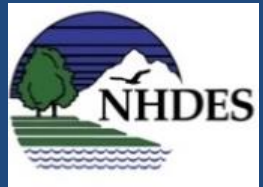
Ethanol,
Water, and
Copper
Creates **Blue**
Scaling







ICEA Initial Development



Interim
Conditional
Extension
Allowance
(ICEA)
Initial
Internal
Discussions

Trying to manage through a “**Relatively New (NH-2021)**” testing requirement. There is a noticeable resistance to get these tests done....

How can we “**move the needle**” on the required sump testing? Our sump testing numbers were lower than we wanted to see.

Are Facility owners **worried their sumps are going to fail?** Is that why the tests are not being done? Would this help?

Is formal enforcement the **ONLY** answer? If so, that means a **mountain of paperwork** for yours truly!

Interim
Conditional
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(ICEA)
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When Sump Failure Occurs? – How can we help these owners? ...can we think about ideas where we can reduce the business impact and **protect the environment** at the same time?

Will **Senior Leadership** Support? ...are we being too lenient? How will it be received? We thought positively....

What is the impact of Red-Tagging??
ESPECIALLY in our **Rural Communities**?

We have a lot of “mom and pop” Facilities that have been on the books for a while... We need to **GET THEM INTO COMPLIANCE** with these new rules!!

**Interim
Conditional
Extension
Allowance
(ICEA)
Initial
Internal
Discussions**

NH has a limited number of “certified tank installer” contractors... If we took the formal enforcement action approach, would NHDES **have a log-jam of plans??**

Should the allowance have built in **financial burdens** so as to encourage owners to fix the problem instead of “kicking the can down the road?”

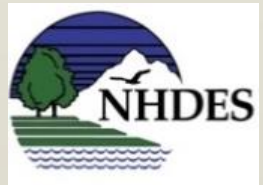
We thought it to be prudent to have more frequent inspections by **qualified individuals** (A & B operators / ICC U-1 / equip.-certified) in order to protect the environment.

DISTINCT DIFFERENCE BETWEEN:

NO TEST and **FAILED TEST**

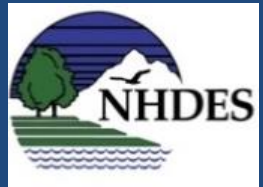
What was NHDES **Ultimate Goal?**

Is it a **WIN / WIN?**



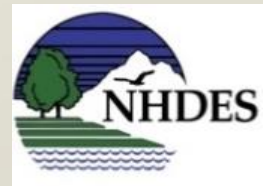
ICEA Roll-Out

November 2024



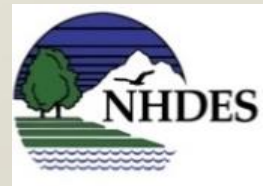
REQUIRED CONDITIONS & BEYOND

- **Initial** Failing Tightness Test Result (**3-hour**) or Visual.
- Must be the **ONLY** Remaining Deficiency (no other RTOs).
- No bottom compromise.
- Passing **Low Level** Hydro Test (**1-hour**).
- Installation of **De-Energizing Sensor(s)** for duration.
- **Continuous Monitoring** of Impacted Sump(s).
 - ✓ Weekly Inspections
 - ✓ Monthly Reporting to NHDES Enforcement staff
 - ✓ Quarterly Functionality Sensor Tests
 - ✓ **MUST USE DEPARTMENT PREPARED FORMS**



COMMUNICATION W FACILITY OWNERS

- Notice of Intent to Red-Tag Issued.
- Importance of Committing to **Deadlines w Some Flexibility** if they Show Appreciable Effort.
- In some Cases, leadership will allow extenuating circumstances to dictate our final DEADLINE.
- If ICEA conditions are not met, Red-Tags are affixed.
- Facility owners recognize that this ICEA is **costing them money the longer they wait**. If it is as simple as a boot replacement, GET E'r DONE!
- The Department appreciates any **Positive/Negative Feedback** from Owners.



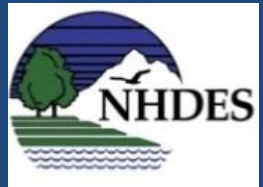
ICEA DOCUMENTS TO BE SUBMITTED TO ENFORCEMENT

- ✓ **Low-Level Hydro Test**
[ICEA Low-Level Hydro Reporting Form.pdf](#)
- ✓ **Quarterly Functionality Sensor Tests**
[De-Energizing Functionality Reporting Form.pdf](#)
- ✓ **Weekly Inspections**
[Weekly inspection-checklist ICEA.pdf](#)
- ✓ **Monthly Reporting**
[Monthly Reporting Form.pdf](#)

NUMBER OF SITES INVOLVED IN ICEA PROGRAM

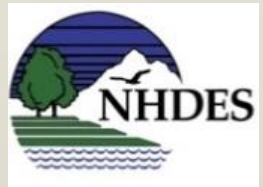
- Since November 2024, **four Facilities** have been afforded the ICEA. This number has a lot to do with other RTOs that exist at the Facility.
- All of the Facilities are maintaining compliance throughout the duration of the intended upgrade.
- Two of the four are in the final stages of construction and will likely receive operational approval in the next few weeks.

ICEA Testimonial(s)





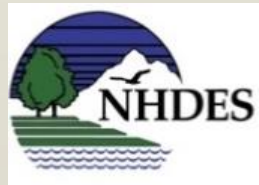
Simons Market, Inc. – Matthew Simon, President



“My name is Matthew Simon, President of Simon's Market Inc. in Littleton NH. On April 18, 2024 my gasoline station experienced a failed sump test.”

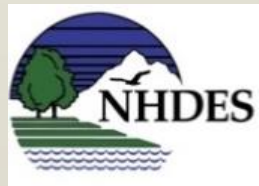
“I am very grateful to the NHDES for extending ICEA to me so that I could remain operating while I wait for the necessary repairs to be completed.”

“At the time of my failed sump test contractors who are qualified to do the necessary repairs were scheduling work over a year into the future.”



“Consequently, if I had not received an ICEA it is likely that I would have been unable to dispense gasoline for well over a year. This **would have been catastrophic** for my business and would have forced me to lay off multiple employees.”

“In exchange for this allowance, I was required to install shutoff sensors, do weekly visual inspections, test the shutoff sensors regularly and file weekly, monthly and tri-monthly reports with the state. We **take these inspections seriously** knowing that the consequences for failing to operate a clean site or report in a timely manner will result in the loss of our ability to dispense gasoline.”





Testimonial from CN Brown – Kevin Knightly, Maintenance Dir.

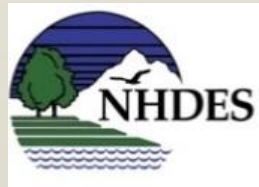


“The NHDES has been terrific to work with...”

“The Department was very understanding with the situation and worked with us to come up with a plan that allowed us to stay open but also protected the environment...”

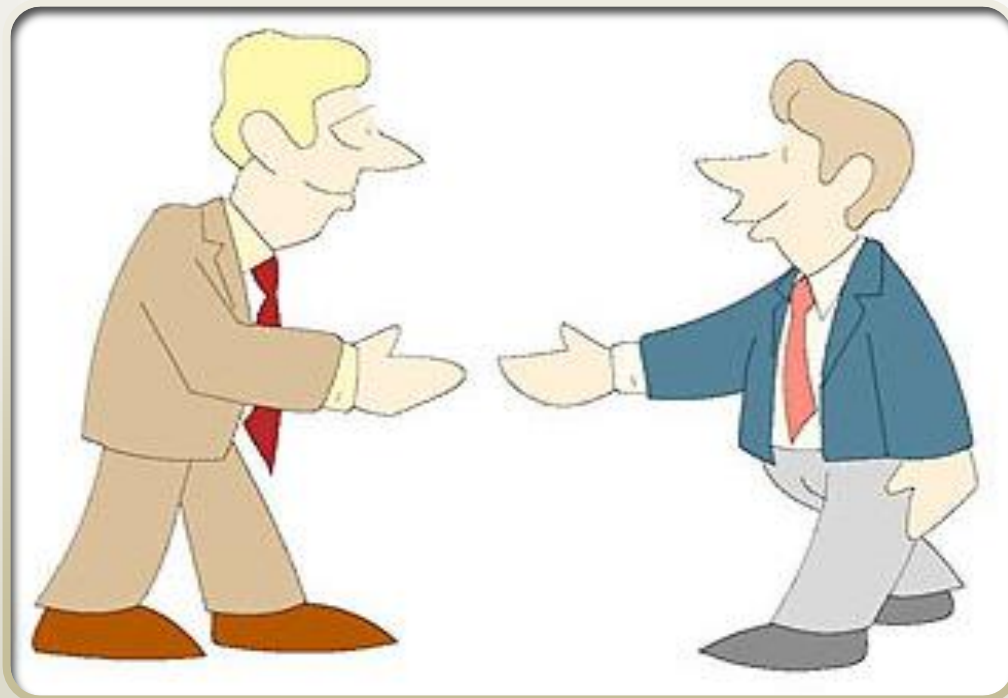
“With construction schedules and lead-times on equipment where they are in today's market any project can be a challenge to get done...”

“I was in contact with Mr. Kaveny often. I was upfront and realistic with him on timelines and what was needed and he worked with me...”



“This site purchase and tank replacement **would not have been possible** without the ICEA that the department offers...”

“...because of this program they have been able to have **operation at 100%** until the tank job can be completed.”



Happy to Answer
Questions After Diana
and Mike Have
Concluded Their
Presentations....

Thank You

