

Recent and Upcoming Changes to Petroleum and Chemical Bulk Storage Programs

Division of Environmental Remediation
Bureau of Spill Prevention and Response

NYS Department of Environmental Conservation



Recent & Upcoming Changes

**Some material referenced
in this presentation is
currently in development
and subject to change**

NYS Department of Environmental Conservation



Federal Energy Policy Act of 2005

- Signed into law August 8, 2005
(E.P. Act Title XV, Subtitle B amends
Solid Waste Disposal Act, Subtitle I)
- Includes the "Underground Storage
Tank Compliance Act" (USTCA)

NYS Department of Environmental Conservation



USTCA – Groundwater Protection

- States to require either:
 - New tank systems within 1,000 ft of community water systems / potable wells must have secondary containment (tank / piping / dispenser), OR
 - Financial responsibility for equipment manufacturer / installer, plus installer certification

NYS Department of Environmental Conservation



USTCA – Groundwater Protection

- Required for all new installations or replacements of portion of UST systems after February 8, 2007
- NY to revise PBS regulations to require secondary containment for new UST systems

NYS Department of Environmental Conservation



USTCA – Operator Training

- 3 levels of training:
 - Persons with *primary responsibility* for on-site operation & maintenance of UST systems (Class A)
 - Persons with *daily responsibility* for operation & maintenance of UST systems (Class B)
 - *Daily, on-site* employees who would address emergencies (Class C)

NYS Department of Environmental Conservation



USTCA – Operator Training

- Operator training program must include an evaluation of knowledge (i.e., exam)
- Time frames:
 - EPA issued guidance August 2007
 - States to adopt by August 2009
 - Training to be completed by August 2012

NYS Department of Environmental Conservation



USTCA – Inspections

- First round of inspections completed by August 8, 2007 and at least every 3 years thereafter
- Conducted by:
 - EPA & contracted inspectors
 - State & contracted inspectors
 - Delegated county agencies

NYS Department of Environmental Conservation



USTCA – Inspections

- Inspections must assess compliance with:
 - Spill / overfill prevention
 - Corrosion protection
 - Leak detection
 - Spill reporting
 - Financial responsibility

NYS Department of Environmental Conservation



USTCA – Delivery Prohibition

- Definition – illegal to deliver to or accept delivery into UST identified by State or EPA as ineligible
- Ineligible USTs must include:
 - Equipment violations for spill / overfill prevention, leak detection, or corrosion protection; OR
 - Any other conditions set by State

NYS Department of Environmental Conservation



USTCA – Public Record

- Requires UST records for all facilities to be made available to the public:
 - Number, sources and causes of UST releases
 - Number of UST equipment failures
 - Record of compliance for USTs
- Search DEC database at:
<http://www.dec.ny.gov/chemical/8437.html>

NYS Department of Environmental Conservation



Changes to ECL §17-1007

- Became effective July 21, 2008
- All newly-regulated PBS and CBS tanks must be in compliance by **July 21, 2009**
- Includes tanks covered by 40 CFR Part 280
 - Gives DEC *authority* to require operator training
 - Gives DEC *authority* to prohibit deliveries

NYS Department of Environmental Conservation



Changes to ECL §17-1007

- Redefines “petroleum”
- Redefines “facility”
- Authorizes “designated representative” to register all tanks at facility in case of multiple tank owners

NYS Department of Environmental Conservation



Old PBS Applicability

- “Petroleum” meant any petroleum based oil of any kind which is liquid at 20°C under atmospheric pressure and has been refined, re-refined, or otherwise processed for the purpose of being burned as a fuel to produce heat or usable energy, or which is suitable for use as a motor fuel or lubricant in the operation or maintenance of an engine

NYS Department of Environmental Conservation



New PBS Applicability

- “Petroleum” means:
 - Crude oil and any fraction thereof
 - Any mixture containing crude oil and any fraction thereof
 - Synthetic forms of lubricating oil, dielectric oils, insulating oils, hydraulic oils and cutting oils

NYS Department of Environmental Conservation



New PBS Applicability

- “Petroleum” DOES NOT include:
 - Hazardous waste
 - Hazardous substances under Article 40
 - Animal/vegetable oils that do not contain crude oil or any fraction thereof
 - Gases

NYS Department of Environmental Conservation



Old PBS Applicability

- “Facility” meant one or more stationary tanks (both underground and aboveground) which had a combined storage capacity of over 1,100 gallons of petroleum at the same site
- Did not include on-site heating oil tank system less than 1,100 gallons in the calculation of site capacity
- If site needed to be registered, all tanks were included

NYS Department of Environmental Conservation



Old PBS Applicability


- Included all used oil tanks, regardless of size
 - tanks storing used oil that was burned were considered storing a product & paid a registration fee
 - tanks storing used oil that was pumped out and hauled away did not pay a registration fee
 - tanks less than 1,100 gallons storing used oil for burning did not count toward the facility capacity; however, they had to be registered regardless of facility capacity

NYS Department of Environmental Conservation



New PBS Applicability

- “Facility” means:
 - Property (single/contiguous or adjacent used for a common purpose)
 - Owned or operated by same person with:
 - (1) One or more stationary tanks with a combined capacity of 1,100 gallons, OR
 - (2) A federal UST greater than 110 gallons

NYS Department of Environmental Conservation 


New PBS Applicability

- “Facility” DOES NOT include:
 - Oil production facilities
 - MOSFs (licensed under Article 12 of Nav. Law)
 - Facilities regulated under Fed. Natural Gas Act
 - Heating oil tanks individually less than 1,100 gallons used for on-premises consumption, unless otherwise at a facility
 - Farm or residential tanks of 1,100 gallons or less storing motor fuel for non-commercial purposes, unless otherwise at a facility

NYS Department of Environmental Conservation 


Regulated PBS Products

1. Crude Oil and Crude Oil Fractions
2. Motor Fuels, including <100% Biofuel Blends
 - a. Gasoline (inc. Gasoline w/ Ethanol)
 - b. Diesel Fuel (inc. Biodiesel)
 - c. Jet Fuel
 - d. Aviation Gasoline

NYS Department of Environmental Conservation 


Regulated PBS Products

- 3. Fuel Oils / Heating Oils, including <100% Biofuel Blends
 - a. Distillate and Residual Oils (heating oils #2, 4, 5, 6)
 - b. Kerosene (heating oil #1)
 - c. Clarified Oil
 - d. Biodiesel (heating) or Used Oil (heating)
- 4. Lubricating and Cutting Oils (including synthetic forms)
 - a. Motor Oil
 - b. Gear and Spindle Oils
 - c. Hydraulic Oil (including Transmission Fluid, Turbine Oil)
 - d. Cutting Oil
 - e. Petroleum Greases (including Axle, Engine, Gear)

NYS Department of Environmental Conservation 


Regulated PBS Products

- 5. Oils Used As Building Materials
 - a. Asphalt and Road Oils (e.g., Cutback or Emulsions)
 - b. Form Oil
- 6. Petroleum Spirits
 - a. White Spirits (Stoddard Solvents / Mineral Spirits)
 - b. Naphtha
- 7. Mineral and Insulating Oils (including synthetic forms)
 - a. Mineral Oil
 - b. Insulating Oil (including Dielectric Oils such as Transformer and Cable Oils)
- 8. Used / Waste Oil

NYS Department of Environmental Conservation 


Impact to CBS Program

- ECL Article 37 amended to allow the Department to modify list of regulated chemicals listed in 6 NYCRR Part 597

NYS Department of Environmental Conservation 


Impacts of ECL Changes

- Think of as future regulatory revisions
- DEC authorized to require upgrades to existing facilities
- DEC authorized to adopt standards for “new” facilities (some future effective date)

NYS Department of Environmental Conservation 


Impacts of ECL Changes

- DEC authorized to prohibit deliveries to (“red tag”) PBS / CBS tanks that are:
 - Leaking,
 - Suspected to be leaking, OR
 - In violation of certain PBS / CBS regulations

NYS Department of Environmental Conservation 

Impacts of ECL Changes

- If red-tagged, owner / operator will be provided:
 - Opportunity to be heard promptly (not to exceed 15 days)
 - Opportunity to submit proof of compliance at any time
- Requirement for DEC to remove red tags within specified time frame after determining that a tank is in compliance

NYS Department of Environmental Conservation 

Guidance & Policy Documents

- Available now:
 - DER-12 (Application Review Policy for PBS and CBS Registration Applications)
 - DER-16 (Five-Year Inspection of Plastic Tanks)
 - DER-18 (Petroleum Bulk Storage - New Nonmetallic Underground Piping)

- Accessible at:
<http://www.dec.ny.gov/regulations/2387.html>

NYS Department of Environmental Conservation



Guidance & Policy Documents

- Currently in development:
 - DER-17 (Secondary Containment Design and Re-Certification)
 - DER-25 (PBS Inspection Handbook)
 - DER-26 (How to Prepare a CBS Spill Prevention Report)
 - DER-28 (Guidance on the Definition of Petroleum)

- Drafts of DER-17 and DER-26 accessible at:
<http://www.dec.ny.gov/regulations/2387.html>

NYS Department of Environmental Conservation



Other Issues – Federal USTs

- Leak detection option of 5-year tightness testing combined with inventory monitoring for single-wall USTs **expired** 12/22/2008

- One of the following methods now required:
 - Manual Tank Gauging (limited to small tanks)
 - Statistical Inventory Reconciliation (SIR)
 - Automatic Tank Gauge (ATG)
 - Interstitial Monitoring
 - Groundwater / Vapor Monitoring

NYS Department of Environmental Conservation



For More Information

- DEC Website (Bulk Storage Program)
<http://www.dec.ny.gov/chemical/287.html>
- Bulk Storage Regional Contacts
<http://www.dec.ny.gov/about/44337.html>
- Bulk Storage Help Line
(518) 402-9543 or (518) 402-9553
- EPA Website (UST Program)
<http://www.epa.gov/oust>

NYS Department of Environmental Conservation