



TANK BULLETIN

New York State Department of Environmental Conservation

April 2009

CHANGES TO THE PETROLEUM BULK STORAGE PROGRAM

On July 21, 2008, New York State law for the Petroleum Bulk Storage (PBS) program was modified. There are two major areas of changes :

What You Need to Know

**Registration
Deadline:
July 21, 2009**

**New Definition
of Petroleum**

**New Definition
of Facility**

**What Should
Tank Owners
Do?**

**Changes That
Will Affect All
Facilities**

**Where Can I
Find
Registration
Forms,
Regulations,
and Law?**

**Getting More
Information**

- Certain tanks and facilities not previously regulated by the DEC under the PBS program were added to the program (see information below on these changes).
- Changes were made to comply with requirements mandated by the federal Energy Policy Act of 2005 (see below for information on new requirements that will affect all facilities.)

The new law requires that certain tanks not previously regulated under the State PBS regulations be registered and in compliance with the existing regulations by July 21, 2009.

Specific changes to the law include:

- broadening the definition of "petroleum" to include all fractions of crude oil;
- changing the definition of "facility" to include underground tanks greater than 110 gallons;
- requiring tanks that are newly regulated due to the changes in the definitions of "petroleum" and "facility" to be registered with the NYSDEC and be in compliance with existing Petroleum Bulk Storage Regulations (6 NYCRR Parts 612, 613, and 614) requirements by July 21, 2009.

The new definition of "facility": a single property or contiguous or adjacent properties used for a common purpose which are owned or operated by the same person on or in which are located: (a) one or more stationary tanks which are used singularly or in combination for the storage of more than 1,100 gallons or (b) any tank whose capacity is greater than 110 gallons where 10% or more of the volume of the tank is underground.

Notes: A property that includes a heating oil tank with a capacity less than 1,100 gallons that is used solely for on-premises consumption is not a "facility" unless the heating oil tank is on a site that otherwise meets the definition of facility (used to store more than 1,100 gallons of other petroleum or having an underground tank greater than 110 gallons). A farm or residence that includes tanks 1,100 gallons or less used to store motor fuel for non-commercial purposes is not a "facility," unless the farm or residence otherwise meets the definition of facility.

The new definition of “petroleum”: crude oil and any fraction thereof; any mixture containing crude oil or any fraction thereof; and synthetic forms of lubricating oil, dielectric oils, insulating oils, hydraulic oils and cutting oils. This includes crude oil, motor fuels, heating oils, lubricating and cutting oils, petroleum greases, petroleum spirits (mineral spirits, naphtha), mineral and insulating oils (and products made from mineral oil including automatic transmission fluid), and used oil.

Note: Petroleum does not include hazardous waste, substances regulated under the chemical bulk storage program, animal or vegetable oils that do not contain crude oil or any fraction thereof, or products that are gases at 68° Fahrenheit and one atmosphere pressure (e.g, propane).

Tanks storing asphalt are not included. While transformer oil, hydraulic oil, and asphaltic emulsions do meet the definition of petroleum, the Department is considering appropriate storage standards for transformers, hydraulic lift tanks and tanks storing asphaltic emulsions. The Department is considering issuing an enforcement discretion memo providing relief for these three categories of tanks until the revised PBS regulations are finalized.

What Should Tank Owners Do?

Step 1: Determine if the new definitions of “petroleum” and “facility” affect you by reviewing all storage tanks at the property. Make a list of all of the tank capacities and products stored at the property. If you have a previously-registered facility, you will need to add tanks to your existing registration if either (a) or (b) below are true. If you have a site that has never been registered before, you will need to register all tanks on the property that meet either of the following criteria:

(a) You have any underground storage tanks (larger than 110 gallons and more than 10% underground) used to store petroleum (other than heating oil used on-site), and the site is not a farm or residence.

(b) When you add together the capacity of all petroleum storage tanks (not including heating oil tanks less than 1,100 gallons or farm/residential non-retail motor fuel tanks 1,100 gallons or smaller) the total capacity is greater than 1,100 gallons.

Examples:

Here are some examples of facilities affected

by the changes in the law:

1. A vehicle repair shop has several small aboveground tanks storing engine lube oil, used lube oil, and automatic transmission fluid (ATF), and the total storage capacity of the storage tanks is over 1,100 gallons. All of the tanks must be registered.
2. A site has an underground motor fuel tank over 110 gallons (perhaps for fleet operations or construction equipment). All tanks at the property would need to be registered (including any other heating oil tanks, aboveground tanks, etc.).
3. A farm or residence has a 1000-gallon gasoline storage tank, a 1000-gallon diesel storage tank and a 500-gallon heating oil tank. All tanks should currently be registered because the combined capacity of the tanks storing motor fuel is greater than 1,100 gallons. Under the new definition of facility, none of the tanks need to be registered because there are no single tanks greater than 1,100 gallons. The site will not be regulated after July 21, 2009.

Step 2: If you have tanks to add to your registration or are a newly regulated facility, you will need to determine if the tanks are in compliance with the requirements of existing state regulations (i.e., 6 NYCRR Parts 613 and 614).

- Underground tanks installed before December 27, 1986 will probably need to be tested for tightness and operators will need to begin keeping inventory monitoring records (see sections 613.4 and 613.5).
- Underground tanks installed after December 27, 1986 must be protected from corrosion (tank and piping systems), have secondary containment (tank), a leak monitoring system (tank and piping systems) and an overflow prevention system.
- All aboveground tanks will need to be inspected monthly (see section 613.6) and, if the tank is in contact with the ground, will need to have a ten-year inspection (see section 613.6).
- Aboveground tanks installed after December 27, 1986 must be constructed of welded steel and be protected from atmospheric corrosion. If the tank is resting on-grade, it must have an impermeable barrier under the tank with the ability to monitor for any leakage and must be protected from corrosion if in contact with soil.
- All aboveground tanks 10,000 gallons or larger (regardless of installation date) must have secondary containment around the tank. (Note that traditional double-wall aboveground tanks do not by themselves provide secondary containment.) All smaller aboveground tanks must be evaluated for the potential to discharge to waters of the state and if they are likely to do so, must also be provided with secondary containment or re-designed so that discharges are not reasonably expected to occur.

If any tank is not in compliance with the requirements listed above, it must be brought into compliance by July 21, 2009,

by either closing the tank or installing appropriate equipment.

Changes That Will Affect All Facilities

The new law gives DEC the authority to achieve equivalency with the EPA requirements and to implement requirements from the federal Energy Policy Act of 2005. Specific changes to the law include:

- authority to require tanks to meet equipment requirements (including upgrading existing tanks);
- authority to prohibit deliveries in certain situations;
- authority to require operator training.

Equipment Changes

The PBS regulations will be modified to require the following equipment changes:

- The EPA Underground Storage Tank regulations required owners/operators to upgrade their tank systems by December 22, 1998 to protect them from corrosion, to install and use release detection equipment on both tank and piping, and to have spill (catch basins) and overflow prevention equipment.
- The federal Energy Policy Act of 2005 requires all federally-regulated underground tanks installed after February 8, 2006 to have secondary containment for the entire tank system (tank, piping and under-dispenser).

Delivery Prohibition

The federal Energy Policy Act of 2005 requires States to prohibit deliveries when spill prevention equipment is not installed, and to consider prohibiting deliveries for not correcting operational violations. The new State law authorizes the Department to prohibit deliveries

when:

- a tank is leaking,
- where a leak is probable,
- for violations of the requirements to install equipment for spill prevention, overfill protection, leak detection, corrosion protection, or secondary containment, and
- for violation of requirements to properly operate or maintain leak detection, spill, overfill or corrosion protection equipment.

Operator Training

The new State law and the federal Energy Policy Act of 2005 require training for three levels of operators at each facility. Specifically, the laws require training for persons that have *primary* responsibility for the on-site operation and maintenance of tank systems (Class A), persons that have *daily* on-site responsibility for operation and maintenance of tank systems (Class B), and on-site employees having primary responsibility for addressing emergencies presented by spills and releases for tank systems (Class C).

Class A and B operators will be required to have their knowledge evaluated to demonstrate their competency to be an operator. Class C operators will be required to be trained and have their knowledge evaluated by either the Class A or B operator. EPA requires that operators be trained and tested no later than August 8, 2012. *Note that one*

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The New York State Department of Environmental Conservation's (NYSDEC) Division of Environmental Remediation maintains an email list for those who would like to receive information regarding the Department's petroleum and chemical bulk storage programs. This mailing list is used only by the NYSDEC so you will only receive information from the Department.

To subscribe to the Tank Bulletin and receive other notifications from the Department regarding bulk storage issues, visit the Department's website at:

<http://lists.dec.state.ny.us/mailman/listinfo/tankbulletin>

person may fill the role of more than one category of operator. Further information on specific training/testing requirements is being developed and will be made available soon.

[Where Can I Find Copies of the Registration Forms, Regulations, and Law?](#)

The registration form, registration worksheet and registration instructions are available on the NYSDEC website at <http://www.dec.ny.gov/pubs/4767.html> or by calling the Bulk Storage helpline at (518) 402-9543.

Petroleum Bulk Storage Regulations (6NYCRR Parts 612, 613, and 614) are available on the NYSDEC website at <http://www.dec.ny.gov/regs/2490.html>.

A copy of the new law is available on the NYS Assembly website at <http://public.leginfo.state.ny.us/menugetf.cgi?COMMONQUERY=LAWS> (Click on ENV and then Article 17, Title 10).

[Where Can I Find More Information?](#)

More information on the federal Energy Policy Act of 2005 is available at http://epa.gov/oust/fedlaws/epact_05.htm.

If you have further questions about NYSDEC bulk storage regulations, call 518-402-9543.