

SUMMARY OF MAJOR CHANGES
6 NYCRR PART 613: PETROLEUM BULK STORAGE (PBS)
August 1, 2013

Subpart 1: General Provisions

1. The definition of *facility* is being modified to conform to the 2008 statutory changes and to address other issues:
 - *Facility* is now defined in statute as the property on which the tanks are located, rather than the tanks themselves. If there is more than one tank owner at a property, then all tanks would generally be registered on the same form. If the businesses on the same property are unrelated, then each business may register tanks separately.
 - Regulated tanks now include certain underground tanks larger than 110 gallons.
 - Operational tanks are being excluded from regulation. Operational tanks are tanks that store petroleum which is not consumed. Examples of operational tanks include transformers and hydraulic lift tanks. These tanks are excluded because they are not designed or operated like traditional storage tanks; they are also self-monitoring (meaning that if there is a leak of petroleum, the system ceases to operate properly).
 - Temporary tanks are being excluded from regulation. Temporary tanks are defined as being installed for use at a location for no more than 90 days during any 12-month period. It is impractical to impose registration, equipment, operation, and maintenance requirements on tank systems that are in operation for such a short period of time.
 - The term *used for a common purpose* is being defined in order to clarify which tanks are regulated due to multiple tank owners being present at one site.

2. The definition of *petroleum* is being modified to conform to the 2008 statutory changes and to address other issues:
 - *Petroleum* is now defined in statute as crude oil and any fraction of crude oil. Also considered petroleum are synthetic forms of certain oils, complex blends of hydrocarbons not derived from crude oil, and petroleum mixtures.
 - Excluded from the definition are animal and vegetable oils, as well as substances that are normally gases.

3. The definition of *petroleum mixture* is being added to clarify when a mixture will be regulated as petroleum, a hazardous substance, or not regulated at all. If the mixture contains one percent or more petroleum and no hazardous substance, then it is regulated as petroleum. If the mixture contains at least 70% petroleum and less than 30% hazardous substance containing no hazardous waste, then the mixture is regulated as petroleum. If the mixture contains no petroleum and less than one percent of one or more hazardous substances, then it is unregulated.

4. The definition of *underground storage tank (UST) system* is being modified to match the corresponding definition in the federal UST regulations (40 CFR Part 280). *Aboveground storage tank (AST) system* is being defined as the converse of *UST system*.

5. The definitions of *Class A Operator*, *Class B Operator*, and *Class C Operator* are being added for the purposes of operator training. For all other situations, the original definition of *operator* will continue to apply.
6. The various concepts of tank capacity are now explicitly defined in the terms *design capacity*, *storage capacity*, and *working capacity*.
7. The definition of *farm* is being added and matches the definition in 40 CFR 280.
8. Tank system category terminology is being introduced to differentiate between requirements for tank systems of different ages, based on tank installation date. A Category 1 tank system is a tank system whose tank was installed prior to December 27, 1986. A Category 2 tank system is a tank system whose tank was installed during the period from December 27, 1986 through the effective date of the proposed rule. A Category 3 tank system is a tank system whose tank is installed after the effective date of the proposed rule.
9. Since *facility* is now defined in statute as the property on which the tanks are located, the property owner is responsible for tank registration. However, the tank owner/operator is responsible for operation and maintenance of tank systems.
10. Recordkeeping requirements are being clarified in terms of what needs to be maintained on-site and how long records are required to be kept.
11. Variance provisions are being clarified to note that requests for variances that would continue non-compliance will not be approved, unless DEC authorizes them as part of an enforcement settlement.
12. Certain regulatory provisions (for deliveries and delivery prohibition) are being made applicable to carriers.

Subpart 2: UST Systems Subject to Both Subtitle I and Title 10

1. The only acceptable secondary containment for Category 3 underground tank systems will be double-walled tanks & piping.
2. DEC is adopting EPA's position that spill/overflow prevention is not required for USTs receiving less than 25 gallons at any one time.
3. The existing requirement for as-built plans for USTs is being clarified.
4. Under-dispenser containment (UDC) is being required for any new dispenser system.
5. Cathodic protection monitoring records must be maintained for 3 years.
6. Tank system compatibility requirements are being consolidated into one section.

7. Leak Detection:
 - a. Inventory monitoring is being required only for retail motor fuel UST systems.
 - b. All UST systems must be monitored weekly.
8. Federal leak investigation requirements are being incorporated into these rules.
9. Federal operator training requirements are being incorporated into these rules. Operators will have one year to complete initial training and testing.
10. Federal financial responsibility requirements for third party bodily injury are being incorporated into these rules.
 - a. Mechanisms allowed – self-insurance, guarantee, insurance and risk retention group, standby trust fund, local government bond rating test, local government financial test, local government guarantee, local government fund.
 - b. Not allowed – surety bond, letter of credit.

Subpart 3: UST Systems Subject Only to Title 10

1. Double-walled tanks will be the only acceptable method of secondary containment for Category 3 tanks.
2. As in Subpart 2, spill/overfill prevention is not required for USTs receiving less than 25 gallons at any one time.
3. The existing requirement for as-built plans for USTs has been clarified.
4. Cathodic protection monitoring records must be maintained for 3 years.
5. Tank system compatibility requirements are being consolidated into one section.
6. Leak Detection:
 - a. Category 1 UST systems must be tightness tested annually.
 - b. Annual line testing is required for suction piping that is part of a Category 1 UST system.
7. Leak investigation requirements are being incorporated to remain consistent with Subpart 2.

Subpart 4: AST Systems

1. New tank construction standards (such as UL 80 and UL 2258) are being adopted to allow for new technologies.
2. Additional industry standards are being adopted for testing of ASTs at installation.

3. Tank secondary containment requirements are being clarified.
4. Cathodic Protection (to maintain consistency with other subparts):
 - a. Annual monitoring for adequacy is required.
 - b. Impressed current systems must be monitored every 60 days for operation.
 - c. Monitoring records must be maintained for 3 years.
5. Tank system compatibility requirements are being consolidated into one section.
6. Leak investigation requirements are being incorporated to remain consistent with Subparts 2 & 3.

Subpart 5: Delivery Prohibition

A process for delivery prohibition is being adopted in accordance with NYS statute and the corresponding EPA grant guideline.

Subpart 6: Spill Reporting, Investigation, and Remediation

1. This is a new subpart that contains those requirements that will be incorporated in the new Part 611 in Phase II of the rule making.
2. Requirements from 40 CFR Part 280 Subparts E, F, and G that address spill response, investigation, and remediation are being incorporated in this subpart.
3. These requirements are broad enough to apply to state-regulated USTs/ASTs as well as federal USTs.