

FOR IMMEDIATE RELEASE:

New Enforcement Rules

**Modifications to the New York State
Petroleum Bulk Storage Program 2009**

Syracuse, New York - June 9, 2009 - The New York State Department of Environmental Conservation (NYSDEC) will begin to enforce modifications to its Petroleum Bulk Storage (PBS) program on July 21, 2009. This enforcement is the result of regulations passed on July 21, 2008; however, a draft version of those regulations will reportedly not be available until early to mid 2010.

There are two major changes:

- Certain tanks and facilities not previously regulated by the NYSDEC under the PBS program were added to the program (see below).
- 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.)

Registration, operation and inspection requirements will be affected. The NYSDEC has posted a webpage to layout the new regulations and what facilities it will affect at <http://www.dec.ny.gov/chemical/53278.html>. The new regulations were made to comply with requirements mandated by the federal Energy Policy Act of 2005. These major modifications will reportedly include, but not limited to, the following items:

- Broadening of the definition of “petroleum” to include all fractions of crude oil (lubricating oil, dielectric oils, insulating oils, hydraulic oils, cutting oils, crude oil, motor fuels, heating 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);
- Changing the definition of “facility” to be a property that contains one or more stationary tanks which are used singularly or in combination for: (a) 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.
- 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** <http://www.dec.ny.gov/regs/2490.html>.

“A significant change in definition now includes “any tank whose capacity is greater than 110 gallons where 10% or more of the volume of the tank is underground.”

If you are a facility owner (excluding a farm or residence with noncommercial use) and have underground tanks larger than 110 gallons that are not registered or have a combined facility storage capacity of 1,100 gallons or more of petroleum, then it is required that you register these tanks with the NYSDEC by **July 21, 2009**. All tanks being registered or currently registered are required to be in compliance with the existing Petroleum Bulk Storage Regulations (6 NYCRR Parts 612, 613, and 614). A few examples of those facilities that will be affected can be found at <http://www.dec.ny.gov/chemical/53278.html>.

continued on next page

A few more changes that will affect all facilities:

- Facility operator training requirements can be expected to be included as part of the July 21, 2009 modifications. A national organization will be designated by New York State to provide this training to all personnel involved in the operation of petroleum storage tanks. Various levels of training for gas station clerks, store managers and those who have corporate responsibility for storage facilities will be required to be trained. Once completed for New York State, the certification will reportedly be valid for several other states. Further details can be found at <http://www.dec.ny.gov/chemical/53278.html>.
- Delivery prohibitions will be enforced if a facility is operating a tank that is leaking or appears to be leaking or if the facility does not have or is not properly operating proper spill prevention, overfill prevention, leak detection, spill detection or secondary containment as is required under the current regulations. The NYSDEC will reportedly be authorized to lock fill ports if necessary.

Who will be affected?

- **Automobile dealerships**
- **Industrial and commercial properties using heating oil or storing oil (>110 gallons).**

Modifications to the NYSDEC PBS program will likely affect a number of automobile dealerships and smaller service garages that were not subject to the old regulations. It is therefore strongly recommended that any facilities in question of currently being a qualified PBS facility under the new regulations register with the NYSDEC before the July 21, 2009 modifications are applied. Registration forms and other information can be found at <http://www.dec.ny.gov/chemical/287.html>.

Contact Information:

David Palmerton
or Joshua Sandberg
Palmerton Group, LLC
315-463-5300
d.palmerton@palmertongroup.com
6296 Fly Road
East Syracuse, NY 13057
www.palmertongroup.com

- Litigation Support
- Environmental Forensics
- Environmental Site Assessments
- Hydrogeological Services
- GIS Mapping Services
- Oil and Gas Industry Services
- Remediation Services
- Environmental Expert Preparation
- Records Research and Analysis