

## 6 NYCRR Part 613 Supporting Documents for Proposed Amendments

Summary of Express Terms

Amendments to 6 NYCRR Part 613

Petroleum Bulk Storage

The New York State Department of Environmental Conservation (DEC) is proposing to amend 6 NYCRR Part 613 (Part 613), *Petroleum Bulk Storage* (PBS), which regulates the handling and storage of petroleum in underground and aboveground storage tank systems.

These amendments will:

1. Adopt new initiatives that the United States Environmental Protection Agency (EPA) incorporated into 40 CFR Part 280, effective on October 13, 2015, including:
  - a. Spill prevention equipment (i.e., fill port catch basin) testing;
  - b. Overfill prevention equipment inspection;
  - c. Containment sump testing for sumps used for piping interstitial monitoring;
  - d. Release detection (i.e., leak detection) equipment testing;
  - e. Walkthrough inspections; and
  - f. Adding requirements for field-constructed tanks and airport hydrant systems;
2. Add requirements for financial responsibility for tank owners and operators for EPA regulated underground storage tanks (USTs); and
3. Incorporate needed clarifications to the PBS regulations based on experience developed since the promulgation of Part 613 in September 2015 (effective October 11, 2015). These changes will improve the consistency and clarity of language directing the administration of the PBS program.

The Express Terms are summarized below.

#### Subpart 613-1: General Provisions

Subpart 613-1 contains provisions covering the purpose of the rule, applicability, definitions, recordkeeping requirements, and standards incorporated by reference. This Subpart also contains provisions concerning access to records and facilities, preemption and approval of local laws or ordinances, variances, registration, tank system maintenance and use of equivalent technology, enforcement and severability, future climate risk, and financial responsibility.

The applicability section has been updated to better define the responsibilities of the various entities related to the facility (*i.e.*, facility owner, tank owner, operator, carrier, contractor in a contractual relationship with the facility owner/tank system owner/operator, and any other party and its contractors retained as part of a business transactions relating to the facility) and resolve any confusion that may arise during enforcement.

Some definitions that are central to the implementation of the PBS program are clarified or added in the proposed rule. The terms “containment sump”, “field-constructed tank”, and “hydrant system” have been defined to address newly integrated federal requirements that apply to these equipment/tank systems. The definitions of “accessible area”, “inaccessible area”, “ancillary equipment”, “piping”, “tank”, “tank system”, and “repair” have likewise been updated to better reflect their counterparts in 40 CFR Part 280 (and better match their contextual use in such federal regulations). Equipment previously known as spill prevention has been defined as “fill port catch basin” to differentiate it from the term ‘spill prevention’ as used in the regulations as a generic noun. “Primary containment” has also been defined not only to contrast with the previously defined “secondary containment”, but to also better frame the spill reporting/response requirements. The definition of “lining” has also been updated to reflect its purpose (*i.e.*, to address compatibility issues

between the tank wall and the stored type of petroleum) and better distinguish it from other layers of the tank wall.

While the definitions of “Category 1”, “Category 2”, and “Category 3” still differentiate between requirements for equipment of different ages based on installation date (relative to effective dates of previous PBS regulations), these have also been expanded to apply to individual tank system equipment (where these definitions previously applied to whole tank systems). The definition of “install” has also been updated to include self-structural tank retrofits (*i.e.*, a new tank installed within an existing tank). This, together with newly listed technical standards, effectively allows the use of such tanks. The definition of “replaced” has been expanded to cover all tank system equipment (as opposed to just tank and piping). “Change-in-service” is a new defined term and a form of permanent closure.

#### Subpart 613-2: UST Systems Subject to Both Subtitle I and Title 10

Subpart 613-2 addresses UST systems that are subject to State regulation pursuant to Title 10 of Environmental Conservation Law Article 17, sections 17-1001 through 1017, entitled “Control of the Bulk Storage of Petroleum” (Title 10), and federal regulation pursuant to Subtitle I of the Resource Conservation and Recovery Act (RCRA), 42 USC sections 6991 through 6991m, entitled “Regulation of Underground Storage Tanks” (Subtitle I). This Subpart harmonizes the State’s UST system requirements with the federal requirements found in 40 Code of Federal Regulations (CFR) Part 280, entitled “Technical Standards and Corrective Action for Owners and Operators of Underground Storage Tanks.” This Subpart contains requirements concerning: design, construction, and equipment specifications; general installation, operation, and maintenance practices; leak detection; spill reporting, investigation, and confirmation; tank system closure; and Operator Training.

### Subpart 613-3: UST Systems Subject Only to Title 10

Subpart 613-3 addresses UST systems that are only subject to Title 10. The structure of this Subpart reflects that of Subpart 613-2 and contains similar requirements. This Subpart amends UST system requirements from existing Part 613 to be consistent with amendments to 40 CFR Part 280, effective October 13, 2015. UST systems consisting of field-constructed tanks are no longer subject to Subpart 613-3 (these are subject to Subpart 613-2 in proposed Part 613). The only structural difference between Subparts 613-3 and 613-2 is that Subpart 613-3 does not contain requirements for Operator Training.

### Subpart 613-4: AST Systems

Subpart 613-4 addresses aboveground storage tank (AST) systems. Like Subpart 613-3, it has a structure that reflects Subpart 613-2. The substantive provisions are markedly different from Subparts 613-2 and 613-3 because the technologies and practices applicable to AST systems are different from those applicable to UST systems. This Subpart contains requirements for: design, construction, and equipment specifications; general installation, operation, and maintenance practices; (ten-year) inspections and leak detection; spill reporting, investigation, and confirmation; and tank system closure.

### Subpart 613-5: Hydrant Systems

New Subpart 613-5 (Hydrant Systems) has been created to help hydrant system owners/operators understand the requirements applicable to their tank systems, given the increased risk associated with such massive tank systems. Hydrant systems are tank systems that fuel aircraft, watercraft, or rail vehicles and characteristically operate under high pressure through large diameter piping, often terminating into one or more hydrants (or fill stands). This Subpart is structured specifically as a regulatory waypoint that directs the reader to pertinent requirements in Subparts 613-2, 613-3 and 613-4, as hydrant systems are often made up of multiple

types of tanks (where most tank systems only consist of one type). For example, smaller, underground tanks used as reserve jet fuel storage (located closer to fill stands) may be manifolded with field-constructed aboveground tanks situated away from the runway at an airport. Thus, Subpart 613-5 will point to Subparts 613-2 or 613-3 for the USTs, and to Subpart 613-4 for ASTs.

#### Subpart 613-6: Delivery Prohibition

Subpart 613-6 contains the requirements concerning delivery prohibition. The provisions of this Subpart establish the circumstances and process for imposing a delivery prohibition, required notifications, and the process for termination of a delivery prohibition.

#### Subpart 613-7: Release Response and Corrective Action

Subpart 613-7 contains requirements concerning the initial spill response, abatement measures and site checks, initial site characterization, free product removal, investigations for soil and groundwater cleanup, corrective action plans, and public participation.

#### Subpart 613-8: Financial Responsibility

As part of DEC's efforts to make Part 613 consistent with 40 CFR Part 280, Subpart 613-8 has been created to provide the Financial Responsibility requirements. These ensure that tank owners/operators have the necessary financial mechanisms to clean up spills that occur at their facilities and address resulting environmental and/or third-party damage caused by the spills.

## SUMMARY OF REGULATORY IMPACT STATEMENT

### Amendments to 6 NYCRR Part 613

#### Petroleum Bulk Storage

Full text of the Regulatory Impact Statement is available on the New York State Department of Environmental Conservation's website at [http://www.dec.ny.gov/regulations/\[TBD\].html](http://www.dec.ny.gov/regulations/[TBD].html)

## INTRODUCTION

### 1. STATUTORY AUTHORITY

The New York State (State) law authority that empowers the New York State Department of Environmental Conservation (DEC) to regulate the storage, handling, and cleanup of petroleum is found in Article 12 of the Navigation Law (NL), sections 170 through 197 (Article 12) and Title 10 of Environmental Conservation Law (ECL) Article 17, sections 17-1001 through 17-1017 (Title 10). DEC is authorized to adopt regulations to implement the provisions of the ECL and the NL under ECL sections 3-0301(2)(a) and (m) and NL section 191, respectively. ECL Articles 3 and 17 provide authority regarding access to facilities, premises, and records. DEC's existing rules with respect to petroleum bulk storage (PBS) are found at 6 NYCRR Part 613.

Under Subtitle I of the Resource Conservation and Recovery Act (RCRA), 42 USC sections 6991 through 6991m (Subtitle I), the U.S. Environmental Protection Agency (EPA) is authorized to regulate PBS underground storage tanks (USTs). EPA's implementing rule is found at 40 Code of Federal Regulations (CFR) Part 280.

## 2. LEGISLATIVE OBJECTIVES

The legislative objectives underlying the above-referenced statutory authority are directed toward establishing requirements for the safe storage and handling of liquids, including petroleum, that pose a threat to public health and the environment. The proposed amendments to Part 613 will continue to meet these legislative objectives and reflect the statutory changes that were made to Title 10 in 2008, which allow for consistency with new federal requirements enacted in the Energy Policy Act of 2005. Adoption of proposed amendments to Part 613 will also ensure that the environmental and public health protections afforded by the existing Part 613 and 40 CFR Part 280 are continued and enhanced.

## 3. NEEDS AND BENEFITS

This rule making is principally aimed at harmonizing the existing State requirements (currently established at 6 NYCRR Part 613) with the federal requirements (found at 40 CFR Parts 280 and 302) so that State and federal regulatory requirements are more consistent. This includes walkthrough inspection requirements, periodic inspection/testing requirements for various equipment, new UST system requirements for hydrant systems and field-constructed tanks, as well as financial responsibility requirements, which are from the 2015 amendments to 40 CFR Part 280. In addition, DEC is proposing to incorporate (by reference) current technology standards and standards of practice for newly installed tank systems and clarify certain existing regulatory requirements. DEC does not intend to establish any new requirements concerning the bulk storage of petroleum that will change the manner in which the subject facilities operate under existing industry practices and applicable federal and State laws and regulations.

In addition to various clarifications or corrections to, and some reorganization of, the requirements embodied in the existing Part 613, the proposed amendments to Part 613 are intended to increase consistency with overlapping federal requirements.

#### 4. COSTS

##### Costs to Regulated Parties

There will be continued costs incurred by facilities subject to the Operator Training requirements of proposed section 613-2.5. Before being designated, every Class A and B Operator must adequately perform an assessment of knowledge of regulatory requirements applicable to the relevant Operator class, and every Class C Operator must be trained and tested by the Class A or B Operator. Operators of tank systems that are not regulated under 40 CFR Part 280 continue to be exempt from this requirement. Self-study can be conducted at no cost and training courses are optional. DEC has previously developed tests for Class A and B operators, in addition to training materials which are publicly available on the DEC website. As in the past, there will be no charge for the training materials or for an Operator to take the test. Costs for Class A and B Operators are limited to costs associated with the time to prepare and take the test. Retesting or new operator designation is required within 30 days of a DEC determination that the underground tank system is significantly out of compliance. However, periodic retesting for Class A and B Operators will be required every five years so Operators remain trained/informed of their responsibilities and relevant regulations, and the possibility of spills occurring can be significantly reduced.

Costs will be incurred by facilities subject to new federal requirements (2015 amendments to 40 CFR Part 280) pertaining to tank systems subject to Subpart 613-2. These include: partial requirements for certain newly regulated wastewater treatment tank systems; testing/inspection/monitoring and repair requirements associated with fill port catch basins, containment sumps, overflow prevention equipment, and leak detection equipment; walkthrough inspection requirements; compatibility requirements for stored biofuel blends with either greater than ten percent ethanol (E10) or 20 percent biodiesel (B20); and financial responsibility requirements (among others). Note that these new federal requirements, which have been in effect since



October 13, 2018, did not have counterparts in previous versions of Part 613, and the costs associated with these new requirements have already been incurred.

The proposed rule will eliminate or reduce costs that are incurred under the existing rules by certain facilities. These cost reductions are attributable to the following features of the proposed rule: (1) self-structural tank retrofits will be allowed, which negates the need for tank removal and reduces the cost of tank installation; (2) additional standards/codes of practices/leak detection methods will be available for specific types of tank systems (which may be easier/cheaper to comply with than the previously available options), particularly for tanks in inaccessible areas, or tank systems that are either hydrant systems or associated with field-constructed tanks greater than 50,000 gallons in design capacity; and (3) the proposed rule will allow DEC to approve any alternative code of practice or leak detection method that is at least as stringent as the ones listed in Part 613.

#### Costs to DEC, State and Local Governments

DEC will continue to incur costs for administration of the Operator Training requirements. DEC will also continue to partially cover its personal and non-personal costs through PBS registration application fees. This proposed rule will not impose any additional costs on State agencies or local governments that own or operate facilities.

#### 5. LOCAL GOVERNMENT MANDATES

No additional recordkeeping, reporting, or other requirements not already created by statute will be imposed on local governments by the proposed rule.

## 6. PAPERWORK

The proposed amendments contain no substantive changes to existing reporting and recordkeeping requirements, apart from adding those that are already required by 40 CFR Part 280. Record retention limits are for three years, five years, until the next test/inspection, or for the life of the tank system. Facilities are also required to retain records on Operator Training. In most cases, paperwork may be submitted and maintained in electronic format.

## 7. DUPLICATION

The proposed rulemaking is not intended to duplicate, overlap, or conflict with any other State or federal requirements. The main goal of this rule making is to reduce duplication. The proposed rule represents a harmonization of existing State PBS and federal UST program requirements. The existing State PBS and federal UST programs regulate the same tank systems in somewhat different ways and are not completely consistent with respect to the terminology used. Those differences will be reduced with the promulgation of amendments to Part 613. New requirements that are in 40 CFR Part 280 (effective October 13, 2015) have been incorporated, as appropriate, into Part 613.

## 8. ALTERNATIVES

DEC considered the following two alternatives in the development of the proposed amendments to Part 613: (1) no action; and (2) revision of all regulatory requirements that affect the PBS program.

DEC declines to take no action for the following reasons. First, adopting the more stringent requirements contained in the revisions to 40 CFR Part 280 makes the PBS regulations consistent with the EPA UST regulations. Second, clarifications are necessary based on experience developed since the promulgation of Part 613 in September 2015. Third, under the no-action alternative, DEC will lose crucial federal funding that

supports implementation and enforcement of its PBS program. Further explanation of these reasons may be found in the Needs and Benefits section of this document.

DEC's second alternative will include the more stringent requirements contained in the revisions to 40 CFR Part 280 that were adopted by EPA and effective on October 13, 2015. These include, but are not limited to: testing/monitoring of fill port catch basins and containment sump (used for piping interstitial monitoring); overflow prevention equipment inspections; leak detection equipment inspections; walkthrough inspections; providing (alternative) requirements for field-constructed tanks and airport hydrant systems; and adding requirements pertaining to financial responsibility for tank owners and operators for EPA-regulated USTs. Lastly, needed clarifications will be made to improve the consistency and clarity of language which directs the administration of the PBS program.

## 9. FEDERAL STANDARDS

The proposed regulations will not exceed any minimum federal standards where applicable or where there is no comparable federal standard.

## 10. COMPLIANCE SCHEDULE

Currently authorized Operators of certain underground tanks will need to continue to complete operator training and testing requirements by retaking the exam within either two years after effective date of the proposed regulations or five years after the date of their last valid Operator certificate (whichever is later). Periodic retesting for Class A and B Operators will be required every five years so Operators remain current and the possibility of spills occurring can be significantly reduced.

The regulated community will be required to comply with all other requirements upon the effective date of the rule.

11. INITIAL REVIEW OF RULE

DEC will conduct an initial review of the rule within three years of its adoption as required by SAPA §207.

## Regulatory Flexibility Analysis for Small Businesses and Local Governments

### Amendments to 6 NYCRR Part 613

#### Petroleum Bulk Storage

##### 1. EFFECT OF RULE

Amendments to 6 NYCRR Part 613 (Part 613) will apply statewide in all 62 counties of New York State (State). The proposed amendments represent a consolidation of existing State and federal requirements, in addition to clarifications. Thus, none of the revisions include any substantive changes to existing requirements pertaining to the Petroleum Bulk Storage (PBS) program.

The New York State Department of Environmental Conservation (DEC) does not collect data with respect to the number of the persons employed by the owner or operator of any subject facility. DEC does not presently collect data on the industrial classification of a registered facility. DEC does not have data on the corporate structures that may exist for a facility owner or operator which may have a bearing on determining how many persons are employed by the owner or operator. DEC only collects information regarding the name, address, and contact information for the owner and operator of each registered facility. Due to this lack of data, DEC is unable to make an estimate of how many small businesses comply with the existing PBS rules at 6 NYCRR Part 613.

The most common types of subject facilities are apartment/office buildings, retail gasoline sales, vehicle repair shops, schools, trucking or fleet operations, and municipalities. There are approximately 35,900 registered PBS facilities in DEC's database. DEC believes that the great majority of the owners and operators of these facilities will likely be properly categorized as small businesses.

DEC does collect data on whether registered facilities are owned by local governments. There are approximately 4,250 PBS facilities identified as registered by local governments. DEC believes that the types of

facilities registered by local governments tend to be vehicle fleet fueling locations for municipal vehicle pools and school district transportation departments.

## 2. COMPLIANCE REQUIREMENTS

Amendments to Part 613 do not contain substantive changes to requirements that are imposed on subject facilities under existing statutory and regulatory authorities.

## 3. PROFESSIONAL SERVICES

No new or additional professional services are likely to be needed by facilities owned by small businesses or local governments to comply with the amendments to Part 613.

## 4. COMPLIANCE COSTS

There will be new costs incurred by facilities subject to the Operator Training requirements of proposed section 613-2.5. Before being designated, every Class A and B Operator must adequately perform an assessment of knowledge of regulatory requirements applicable to the relevant Operator class, and every Class C Operator must be trained and tested by the Class A or B Operator. (Operators of tank systems that are not regulated under 40 CFR Part 280 continue to be exempt from this requirement.) Self-study can be conducted at no cost and training courses are optional. DEC has previously developed tests for Class A and B operators, in addition to training materials which are publicly available on the DEC website. As in the past, there will be no charge for the training materials or for an Operator to take the test. Costs for Class A and B Operators are limited to costs associated with the time to prepare and take the test. Retesting or new operator designation is required within 30 days of a DEC determination that the underground tank system is significantly out of compliance. However, periodic retesting for Class A and B Operators will be required every five years so

Operators remain trained/informed of their responsibilities and relevant regulations, and the possibility of spills occurring can be significantly reduced.

Costs will be incurred by facilities subject to new federal requirements (2015 amendments to 40 CFR Part 280) pertaining to tank systems subject to Subpart 613-2. These include: partial requirements for certain newly regulated wastewater treatment tank systems; testing/inspection/monitoring and repair requirements associated with fill port catch basins, containment sumps, overfill prevention equipment, and leak detection equipment; walkthrough inspection requirements; compatibility requirements for stored biofuel blends with either greater than ten percent ethanol (E10) or 20 percent biodiesel (B20); and financial responsibility requirements (among others). Note that these new federal requirements, which have been in effect since October 13, 2018, did not have counterparts in previous versions of Part 613 and the costs associated with these new requirements have already been incurred.

#### 5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY

Amendments to Part 613 do not contain substantive changes to requirements that are imposed on subject facilities under existing statutory and regulatory authorities, and implementation will be economically and technologically feasible for small businesses and local governments.

#### 6. MINIMIZING ADVERSE IMPACT

Since proposed amendments to Part 613 represent a harmonization of existing State and federal requirements involving PBS, along with clarifications, DEC does not believe that the proposed rule will have an adverse economic impact on small businesses or local governments.

## 7. SMALL BUSINESS AND LOCAL GOVERNMENT PARTICIPATION

DEC continues to provide statewide outreach to regulated parties and interested persons, including small businesses and local governments. DEC posts relevant information on its website to assist the owners and operators of subject facilities with understanding and implementing the requirements of the PBS program. DEC also maintains listservs to which persons may subscribe so that they can receive information about new developments regarding the PBS program.

Pursuant to ECL section 17-1013, a State Petroleum Bulk Storage Advisory Council (Council) was created within DEC to advise DEC about the proposal, preparation, and revision of the regulations written to implement necessary requirements for PBS facilities. Included in the Council's membership are small business owners and local governments. Council members have professional training or experience to analyze and interpret content of the PBS regulations. As drafts of proposed Part 613 were prepared, DEC shared the drafts with the Council and convened conference calls to discuss the Council's comments, answer any questions, and incorporate suggestions as appropriate.

DEC will ensure public notice and input on proposed amendments to Part 613 by issuing public notices in the State Register and DEC's Environmental Notice Bulletin; holding a comment period of at least 60 days; conducting public hearings; and most likely scheduling webinars and public meetings during the comment period. Interested parties, including small businesses and local governments, will have the opportunity to submit written comments and participate in the public hearings, as well as any webinars and public meetings that are held. DEC will also post relevant rule making documents on their website for public access.

## 8. CURE PERIOD OR OTHER OPPORTUNITY FOR AMELIORATIVE ACTION

State Administrative Procedure Act (SAPA) section 202-b(1-a) provides as follows:

In developing a rule for which a regulatory flexibility analysis is required and which involves the establishment or modification of a violation or of penalties associated with a



violation, the agency shall: (a) include a cure period or other opportunity for ameliorative action, the successful completion of which will prevent the imposition of penalties on the party or parties subject to enforcement; or (b) include in the regulatory flexibility analysis an explanation of why no such cure period was included in the rule.

No cure period or other opportunity for ameliorative action is needed because the rule making will not impose additional penalties on the regulated community, including small businesses and local governments

#### 9. INITIAL REVIEW OF THE RULE

DEC will conduct an initial review of the rule within three years of its adoption as required by SAPA §207.

Rural Area Flexibility Analysis  
Amendments to 6 NYCRR Part 613  
Petroleum Bulk Storage

1. TYPES AND ESTIMATED NUMBER OF RURAL AREAS

For purposes of this Rural Area Flexibility Analysis (RAFA), “rural area” means those portions of the state so defined by Executive Law section 481(7), SAPA section 102(10). Under Executive Law section 481(7), rural areas are defined as “counties within the state having less than two hundred thousand population, and the municipalities, individuals, institutions, communities, programs and such other entities or resources as are found therein. In counties of two hundred thousand or greater population, ‘rural areas’ means towns with population densities of one hundred fifty persons or less per square mile, and the villages, individuals, institutions, communities, programs and such other entities or resources as are found therein.” There are 44 counties in New York State that have populations of less than 200,000 people and 71 towns in non-rural counties where the population densities are less than 150 people per square mile. The proposed amendments to 6 NYCRR Part 613 will apply statewide; therefore, they apply to all rural areas of the State.

2. REPORTING, RECORDKEEPING, OTHER COMPLIANCE REQUIREMENTS; AND PROFESSIONAL SERVICES

The rulemaking will not directly impose any significant service, duty, or responsibility upon any county, city, town, village, school district, or fire district in a rural area. This rulemaking does not directly mandate the expenditure of funds by any sector of local government.

The proposed rule contains no substantive changes to requirements that are imposed on subject facilities under existing statutory and regulatory authorities. The proposed rule will not impose requirements on facilities located in rural areas in a manner different from those imposed on facilities in non-rural areas. No different or

additional professional services will likely be needed by facilities in rural areas by virtue of their rural location. These changes will be imposed statewide, including in rural areas, and will affect local governments and private entities.

### 3. COSTS

There will be new costs incurred by facilities subject to the Operator Training requirements of proposed section 613-2.5. Before being designated, every Class A and B Operator must adequately perform an assessment of knowledge of regulatory requirements applicable to the relevant Operator class, and every Class C Operator must be trained and tested by the Class A or B Operator. (Operators of tank systems that are not regulated under 40 CFR Part 280 continue to be exempt from this requirement.) Self-study can be conducted at no cost and training courses are optional. The New York State (State) Department of Environmental Conservation (DEC) has previously developed tests for Class A and B operators, in addition to training materials which are publicly available on the DEC website. As in the past, there will be no charge for the training materials or for an Operator to take the test. Costs for Class A and B Operators are limited to costs associated with the time to prepare and take the test. Retesting or new operator designation is required within 30 days of a DEC determination that the underground tank system is significantly out of compliance. However, periodic retesting for Class A and B Operators will be required every five years so Operators remain trained/informed of their responsibilities and relevant regulations, and the possibility of spills occurring can be significantly reduced.

Costs will be incurred by facilities subject to new federal requirements (2015 amendments to 40 CFR Part 280) pertaining to tank systems subject to Subpart 613-2. These include: partial requirements for certain newly regulated wastewater treatment tank systems; testing/inspection/monitoring and repair requirements associated with fill port catch basins, containment sumps, overflow prevention equipment, and leak detection

equipment; walkthrough inspection requirements; compatibility requirements for stored biofuel blends with either greater than ten percent ethanol (E10) or 20 percent biodiesel (B20); and financial responsibility requirements (among others). Note that these new federal requirements, which have been in effect since October 13, 2018, did not have counterparts in previous versions of Part 613 and the costs associated with these new requirements have already been incurred.

The proposed rules will not impose costs on facilities in rural areas that are different or additional to those incurred by facilities in non-rural areas. There will be no likely variation in costs incurred by public and private entities in rural areas.

#### 4. MINIMIZING ADVERSE IMPACT

Since this rule making is a harmonization of existing State and federal requirements, along with clarifications, DEC believes that the proposed amendments will not cause an adverse impact on any rural area.

#### 5. RURAL AREA PARTICIPATION

DEC continues to provide statewide outreach to regulated communities and interested parties, including those in rural areas of the State. DEC posts relevant information on its website to assist the owners and operators of subject facilities, including those located in rural areas, with understanding and implementing the requirements of the Petroleum Bulk Storage (PBS) program. DEC also maintains listservs to which persons may subscribe so that they can receive information about new developments regarding the PBS program.

Pursuant to ECL section 17-1013, a State Petroleum Bulk Storage Advisory Council (Council) was created by DEC to advise DEC on the proposal, preparation, and revision of the regulations written to implement necessary requirements for PBS facilities. Council members have professional training or experience to analyze and interpret content of the PBS regulations. As drafts of proposed Part 613 were

prepared, DEC shared the drafts with the Council and convened conference calls to discuss the Council's comments, answer any questions, and incorporate suggestions as appropriate.

DEC will ensure public notice and input on proposed amendments to Part 613 by issuing public notices in the State Register and DEC's Environmental Notice Bulletin; holding a comment period of at least 60 days; conducting public hearings; and most likely scheduling webinars and public meetings during the comment period. Interested parties, including those in rural areas, will have the opportunity to submit written comments and participate in the public hearings, as well as any webinars and public meetings that are held. DEC will also post relevant rule making documents on their website for public access.

#### 6. INITIAL REVIEW OF THE RULE

DEC will conduct an initial review of the rule within three years of its adoption as required by SAPA §207.

## JOB IMPACT EXEMPTION STATEMENT

### Amendments to 6 NYCRR Part 613

#### Petroleum Bulk Storage

In accordance with Section 201-a(2)(a) of the State Administrative Procedure Act, a Job Impact Statement has not been prepared for this rule making as it not expected to create a substantial adverse impact on jobs and employment opportunities in New York State (State). This rule making is principally aimed at harmonizing the existing State requirements (currently found at 6 NYCRR Part 613) with the federal requirements (found at 40 Code of Federal Regulations Part 280 and amendments to Subtitle I of the Resource Conservation and Recovery Act, 42 United States Code sections 6991 through 6991m). Many regulated entities with underground storage tank systems should find it easier and less expensive to comply with State regulatory requirements because they will be more consistent with federal regulatory requirements. The New York State Department of Environmental Conservation (DEC) anticipates that this will result in increased compliance. Since this rule making is a harmonization of existing requirements and an incorporation of clarifications based on experience developed since the promulgation of Part 613 in September 2015 (effective October 11, 2015), there will be no change to existing job opportunities.

DEC concludes that these regulatory proposals for existing and new petroleum bulk storage facilities will not have a substantial adverse impact on jobs within the State.