

SUMMARY OF REGULATORY IMPACT STATEMENT

Repeal of:

6 NYCRR Part 596, Hazardous Substance Bulk Storage Facility Registration
6 NYCRR Part 598, Handling and Storage of Hazardous Substances
6 NYCRR Part 599, Standards for New Hazardous Substance Tank Systems

Addition of:

6 NYCRR Part 598, Hazardous Substance Bulk Storage (formerly Handling and Storage of Hazardous Substances)

Amendments to:

6 NYCRR Part 597, Hazardous Substances Identification, Release Prohibition, and Release Reporting

Chemical 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/93063.html> --- **NOTE: This will be updated with the address of web page where the Part 597&598 rule making documents will reside once the page has been created.**

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 and handling of hazardous substances is found in Title 1 of Article 37 of the Environmental Conservation law (ECL), sections 37-0101 through 37-0111, entitled "Substances Hazardous to the Environment" (Article 37), and ECL Article 40, sections 40-0101 through 40-0121, entitled "Hazardous Substances Bulk Storage Act" (Article 40). DEC is authorized to adopt regulations to implement the provisions of the ECL under ECL sections 3-0301(2)(a) and (m). ECL Articles 3 and 17 provide authority regarding access to facilities, premises, and records. DEC's existing rules with respect to chemical bulk storage (CBS) are found at 6 NYCRR Parts 596 through 599.

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 CBS underground storage tanks (USTs). The EPA 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 hazardous substances, which pose a threat to public health and the environment. The proposed amendments to Parts 596 through 599 will continue to meet these legislative objectives and reflect the statutory changes that were made to Articles 37 and 40 in 2008, which allow for consistency with new federal requirements enacted in the Energy Policy Act of 2005. Adoption of the proposed amendments to existing Part 597 and addition of new Part 598 will also ensure that the environmental and public health protections afforded by the existing Parts 596 through 599 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 Parts 596 through 599) with the federal requirements (40 CFR Parts 280 and 302) so that State and federal regulatory requirements are more consistent. In addition, DEC is proposing to consolidate the existing State requirements into two Parts: 6 NYCRR Part 597, which will retain its current form with minimal changes, and 6 NYCRR Part 598, which will incorporate the existing requirements of 6 NYCRR Parts 596, 598, and 599.

The changes aimed at harmonizing the State and federal requirements will primarily affect underground storage tank systems. This includes the addition of the periodic inspection and testing requirements, added in

the 2015 amendments to 40 CFR 280 (effective October 13, 2015), for overfill prevention equipment, spill prevention equipment (including transfer station secondary containment), containment sumps used for interstitial monitoring, and leak detection equipment as well as the addition of the periodic walkthrough inspection requirements.

The consolidation of the existing State requirements into two Parts includes a reorganization of the proposed 6 NYCRR Part 598 into Subparts that reflect the layout of existing Petroleum Bulk Storage (PBS) regulations, 6 NYCRR Part 613. The consolidation and reorganization aim to clarify requirements and better harmonize the PBS and CBS programs, which share many of the same requirements.

In addition, DEC is proposing to clarify certain existing regulatory requirements. DEC does not intend to establish any new requirements concerning the CBS program that would change the manner in which regulated entities operate under existing industry practices and applicable federal and State laws and regulations.

4. COSTS

Costs to Regulated Parties

There will be continued costs incurred by facilities subject to the Operator Training requirements of proposed section 598-2.5. 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 aboveground tank (AST) systems 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 now 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 598-2. These include testing/inspection/monitoring and repair requirements associated with fill port catch basins, containment sumps, overflow prevention equipment, and leak detection equipment; walkthrough inspection requirements. Note that these new federal requirements, which have been in effect since October 13, 2015, did not have counterparts in previous versions of Parts 596 through 599, 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 attributable to the proposed rule will allow for DEC to approve any alternative code of practice or leak detection method that is at least as stringent as the ones listed in new proposed Part 598.

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 CBS 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 would be imposed on local governments by the proposed rule.

6. PAPERWORK

The proposed rule contains no substantive changes to requirements that are imposed on subject facilities under existing statutory and regulatory authorities. 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 the CBS program with State PBS and federal UST program requirements. The existing State and federal CBS 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 597 and the new Part 598, as the new requirements that are in 40 CFR Part 280 (effective October 13, 2015) have been incorporated, as appropriate, into Parts 597 and 598.

8. ALTERNATIVES

DEC considered the following two alternatives in the development of the proposed new Part 598 and amendments to Part 597: (1) no action; and (2) new structure for the rules to incorporate regulatory requirements that affect CBS.

DEC declines to take no action for the following reasons. First, the tables in Part 597 that list hazardous substances must be updated to be consistent with the federal lists specified in ECL Article 40; and information concerning hazardous substances listed in Part 597 need to be corrected so they are consistent between its two tables. Second, the CBS regulations should be restructured so they are consistent with 40 CFR Part 280 and the New York State Petroleum Bulk Storage (PBS) regulations. Third, clarifications are necessary based on experience developed since the promulgation of Parts 596 through 599 in September 2015 (effective October 11, 2015). Fourth, under the no-action alternative, DEC would lose crucial federal funding that supports implementation and enforcement of its CBS program. Further explanation of these reasons may be found in the Needs and Benefits section above.

DEC's second alternative will adopt the structure of 40 CFR Part 280 and 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, spill prevention and release detection equipment testing; overfill prevention equipment inspection; containment sump testing for sumps used for piping interstitial monitoring; and walkthrough inspections. The proposed amendments will also be consistent with the PBS regulations that were promulgated in September 2015 (effective October 11, 2015). Lastly, needed clarifications will be made to improve the consistency and clarity of language which directs the administration of the CBS 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.

Rural Area Flexibility Analysis

Repeal of:

6 NYCRR Part 596, Hazardous Substance Bulk Storage Facility Registration

6 NYCRR Part 598, Handling and Storage of Hazardous Substances

6 NYCRR Part 599, Standards for New Hazardous Substance Tank Systems

Addition of:

6 NYCRR Part 598, Hazardous Substance Bulk Storage (formerly Handling and Storage of Hazardous Substances)

Amendments to:

6 NYCRR Part 597, Hazardous Substances Identification, Release Prohibition, and Release Reporting

Chemical 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 the 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 repeal of Parts 596, 598, 599, addition of the new Part 598, and amendments to Part 597 will apply statewide; therefore, they apply to all rural areas of New York State (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 continued costs incurred by facilities subject to the Operator Training requirements of proposed section 598-2.5. 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 aboveground tank (AST) systems 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 now 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 598-2. These include testing/inspection/monitoring and repair requirements associated with fill port catch basins, containment sumps, overflow prevention equipment, and leak detection equipment; walkthrough inspection requirements. Note that these new federal requirements, which have been in effect since October 13, 2015, did not have counterparts in previous versions of Parts 596 through 599, and the costs associated with these new requirements have already been incurred.

The proposed rule 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, DEC believes that the proposed rule 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 Chemical Bulk Storage (CBS) program. DEC also maintains listservs to which persons may subscribe so that they can receive information about new developments regarding the CBS program.

DEC will ensure public notice and input on proposed amendments to Parts 597 and 598 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. 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.

Regulatory Flexibility Analysis for Small Businesses and Local Governments

Repeal of:

6 NYCRR Part 596, Hazardous Substance Bulk Storage Facility Registration

6 NYCRR Part 598, Handling and Storage of Hazardous Substances

6 NYCRR Part 599, Standards for New Hazardous Substance Tank Systems

Addition of:

6 NYCRR Part 598, Hazardous Substance Bulk Storage (formerly Handling and Storage of Hazardous Substances)

Amendments to:

6 NYCRR Part 597, Hazardous Substances Identification, Release Prohibition, and Release Reporting

Chemical Bulk Storage

1. EFFECT OF RULE

The addition of new 6 NYCRR Part 598 and amendments to existing 6 NYCRR Part 597 will apply statewide in all 62 counties of New York State (State). The proposed rule represents a consolidation of existing State and federal requirements, in addition to clarifications. Thus, there are no substantive changes to existing requirements pertaining to the Chemical Bulk Storage (CBS) program, which includes the identification of hazardous substances.

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 or 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 CBS rules (6 NYCRR Parts 596 through 599).

The most common types of subject facilities are municipal facilities, manufacturing facilities and utilities. There are approximately 1,300 registered CBS 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 550 facilities identified as registered by local governments. DEC believes that the types of facilities registered by local governments tend to be water and wastewater treatment facilities.

2. COMPLIANCE REQUIREMENTS

The proposed rule contains no 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 will likely be needed by facilities owned by small businesses or local governments to comply with the proposed rule.

4. COMPLIANCE COSTS

There will be continued costs incurred by facilities subject to the Operator Training requirements of proposed section 598-2.5. 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 aboveground tank (AST) systems 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 now 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 598-2. These include testing/inspection/monitoring and repair requirements associated with fill port catch basins, containment sumps, overflow prevention equipment, and leak detection equipment; walkthrough inspection requirements. Note that these new federal requirements, which have been in effect since October 13, 2015, did not have counterparts in previous versions of Parts 596 through 599, and the costs associated with these new requirements have already been incurred.

5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY

The proposed rule contains no 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 the proposed rule represents a consolidation of existing State and federal requirements involving CBS and hazardous substance identification, 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 CBS program. DEC also maintains listservs to which persons may subscribe so that they can receive information about new developments regarding the CBS program.

DEC will ensure public notice and input on the proposed rule 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 its 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.

JOB IMPACT EXEMPTION STATEMENT

Repeal of:

6 NYCRR Part 596, Hazardous Substance Bulk Storage Facility Registration

6 NYCRR Part 598, Handling and Storage of Hazardous Substances

6 NYCRR Part 599, Standards for New Hazardous Substance Tank Systems

Addition of:

6 NYCRR Part 598, Hazardous Substance Bulk Storage (formerly Handling and Storage of Hazardous Substances)

Amendments to:

6 NYCRR Part 597, Hazardous Substances Identification, Release Prohibition, and Release Reporting

Chemical 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 is not expected to create a substantial adverse impact on jobs and employment opportunities in New York State (State). By restructuring Parts 596, 598 and 599 into a new Part 598, this rule making is principally aimed at harmonizing the existing State requirements (currently established at 6 NYCRR Parts 596 through 599) with the federal requirements (found at 40 Code of Federal Regulations Parts 280 and 302, 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 tank systems should find it easier and less expensive to comply with State regulatory requirements because they would be more consistent with federal regulatory requirements. The New York State Department of Environmental Conservation (DEC) anticipates that this would result in increased compliance. DEC is also updating the list of hazardous substances subject to regulation to be consistent with the mandate of Environmental Conservation Law section 37-0103(2)(c). Since this rule making consists of restructuring the regulations, harmonizing current requirements and incorporating clarifications based on experience developed since the promulgation of Parts 596 through 599 in September 2015 (effective October 11, 2015), there would be no change to existing job opportunities.

DEC concludes that this regulatory proposal would not have a substantial adverse impact on jobs within the State.

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Office of the General Counsel, Deputy Commissioner & General Counsel
625 Broadway, 14th Floor, Albany, New York 12233-1010
P: (518) 402-8543 | F: (518) 402-9018
www.dec.ny.gov

Christopher DeMarco
NYS Department of State
Division of Administrative Rules
99 Washington Avenue
Albany, NY 12231-0001

Dear Christopher DeMarco:

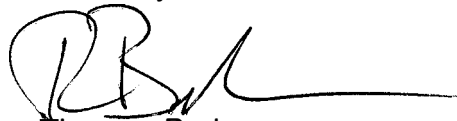
Transmitted with this letter are the Certificate of Adoption and Express Terms for the amendment of 6 NYCRR Part 598: Chemical Bulk Storage.

Incorporated with this filing are two copies of the following document(s) that is/are being incorporated by reference with this adoption:

Code of Federal Regulations	40 CFR 280, Part 280 of title 40 of the Code of Federal Regulations, Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (UST), July 15, 2015
Code of Federal Regulations	40 CFR 281, Part 281 of title 40 of the Code of Federal Regulations, Approval of State Underground Storage Tank Programs, July 15, 2015

Please publish the enclosed documents in the next issue of the State Register.

Sincerely,



Thomas Berkman
Deputy Commissioner
and General Counsel

Enclosures

Incorporation by Reference Certification (required for each book filed with Department of State)

1. I, the undersigned General Counsel for the NYS Department of Environmental Conservation (Agency Name) hereby state that said agency has adopted the following material:

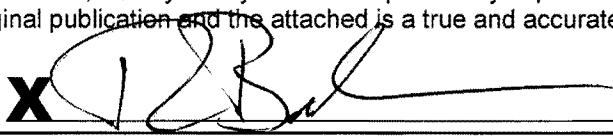
Publication Title:	Technical Standards and Corrective Action Requirements for Owners and Operators of Under
Volume Number:	
Volume Title:	40 CFR 280
Section or Pages:	
Author:	Code of Federal Regulations
Publication Date:	2015
Publisher's Name/Address:	Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402
Electronic location or other source identification:	

2. The attached material is referenced in: Title 6
NYCRR, sections 598 1.16

3. Based on the following facts, it is my opinion that the referenced publication is reasonably available to regulated parties as required by Executive Law §102(1)(c):
6 NYCRR 598-1.16 of our proposed draft regulations is a comprehensive list of the industry codes and standards incorporated by reference into DEC's regulations. The section also specifies multiple locations where copies of the standards can be obtained, as well as where the standards may be inspected in person. Therefore DEC's regulations are in compliance with this requirement.

4. Based on the following facts, it is my opinion that reproduction and distribution of all or part of the referenced material will not violate any copyright:
This standard is published by the Department of Defense. It is publicly available and not copyrighted.

5. The original publication is being submitted to the Department of State.
 A paper reproduction of the referenced material is being submitted to the Department of State and I, the undersigned General Counsel, hereby certify that I have personally supervised the comparison of the attached document with the original publication and the attached is a true and accurate representation of the publication.

General Counsel's Signature: 

Name: Thomas Berkman

Title: General Council

Agency: NYS Department of Environmental Conservation

Date: 2/21/23

Incorporation by Reference Certification (required for each book filed with Department of State)

1. I, the undersigned General Counsel for the NYS Department of Environmental Conservation (Agency Name) hereby state that said agency has adopted the following material:

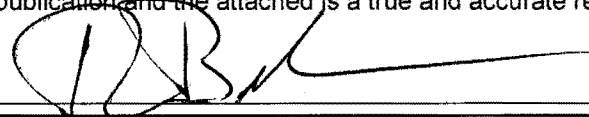
Publication Title:	Approval of State Underground Storage Tank Programs
Volume Number:	
Volume Title:	40 CFR 281
Section or Pages:	
Author:	Code of Federal Regulations
Publication Date:	2015
Publisher's Name/Address:	Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402
Electronic location or other source identification:	

2. The attached material is referenced in: Title 6
NYCRR, sections 598 1.16

3. Based on the following facts, it is my opinion that the referenced publication is reasonably available to regulated parties as required by Executive Law §102(1)(c):
6 NYCRR 598-1.16 of our proposed draft regulations is a comprehensive list of the industry codes and standards incorporated by reference into DEC's regulations. The section also specifies multiple locations where copies of the standards can be obtained, as well as where the standards may be inspected in person. Therefore DEC's regulations are in compliance with this requirement.

4. Based on the following facts, it is my opinion that reproduction and distribution of all or part of the referenced material will not violate any copyright:
This standard is published by the Department of Defense. It is publicly available and not copyrighted.

5. The original publication is being submitted to the Department of State.
 A paper reproduction of the referenced material is being submitted to the Department of State and I, the undersigned General Counsel, hereby certify that I have personally supervised the comparison of the attached document with the original publication and the attached is a true and accurate representation of the publication.

General Counsel's Signature: **X** 

Name:	Thomas Berkman
Title:	General Council
Agency:	NYS Department of Environmental Conservation
Date:	2/21/23