

While the emergency rule allows the amendments to 6 NYCRR Part 597 to become effective the day that the Notice of Emergency Adoption and Proposed Rule Making is filed with the Department of State, the emergency adoption is temporary. The proposed rule provides for the amendments to become permanent upon adoption.

Location: Statewide.

Reasons Supporting This Determination:

(See 617.7(a)-(c) for requirements of this determination; see 617.7(d) for Conditioned Negative Declaration)

DEC has determined that this Notice of Determination of Non-Significance is appropriate, and this emergency rule and proposed rule will not cause significant adverse impacts to the environment. The proposed amendment's addition of PFOA-acid, PFOA-salt, PFOS-acid, and PFOS-salt to the Section 597.3 "List of Hazardous Substances" will have public health benefits.

The industrial uses and the physical-chemical properties of PFOA-acid, PFOA-salt, PFOS-acid, and PFOS-salt are similar. These substances have been widely used in applications such as fire-fighting foam, stain-resistant carpet, and semiconductor coatings, among other things.

DEC has concluded that these substances meet the definition of a hazardous substance, and is adopting this emergency rule and proceeding with this proposed rule. This is based upon the conclusion of the New York State Department of Health (NYSDOH) that the combined weight of evidence from human and experimental animal studies indicates that prolonged exposure to significantly elevated levels of these compounds can affect health and, consequently, pose a threat to public health in New York State when improperly treated, stored, transported, disposed of or otherwise managed. NYSDOH scientists have concluded that it is essential to list these chemicals as hazardous substances. See the Regulatory Impact Statement for additional information, including NYSDOH's letter requesting that these chemicals be added to the List of Hazardous Substances (Section 597.3).

Once substances are determined to be hazardous substances, DEC regulates their handling and storage and has authority to remediate sites contaminated with them. The Chemical Bulk Storage regulations (6 NYCRR 596-599) provide standards for the proper handling and storage of bulk quantities of hazardous substances to prevent spills and releases to the environment, prohibit the release of hazardous substances to the environment (subdivision 597.4(a)), and require the reporting of certain releases of hazardous substances to DEC. Consequently, listing the substances will benefit the environment by limiting exposure and providing the legal mechanisms to clean up of the substances. Certain facilities that store hazardous substances must apply to DEC for a registration certificates to operate. A new provision, paragraph 597.4(a)(3), will allow entities with fire-fighting foam the time necessary to determine whether stored foam contains one or more of these hazardous substances. If the stored foam contains one of these substances, the facility would be required to arrange for the proper disposal of the foam by April 25, 2017. Replacement foam may not contain a hazardous substance at a concentration that would result in the release of more than the reportable quantity (one pound) when used as a fire-fighting foam.

The United States Environmental Protection Agency has classified PFOA-related and PFOS-related substances as emerging contaminants that are extremely persistent in the environment and resistant to typical environmental degradation processes, and has established provisional drinking water advisories for these substances.

The handling and storage of the four substances must meet the standards applicable to hazardous substances in the CBS regulations and DEC's remedial programs (6 NYCRR Part 375) will gain the authority to remediate sites contaminated with the four substances. Thus, adding these substances to the List of Hazardous Substances (Section 597.3) will enhance the protection of public health, including impacts associated with releases of these hazardous substances.

For Further Information:

Contact Person(s): Ted Bennett/Angela Chieco, DER Regulatory Coordinators

Address: NYS Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway, Albany, NY 12233-7012

Phone: (518) 402-9764

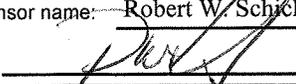
Appendix C

State Environmental Quality Review

SHORT ENVIRONMENTAL ASSESSMENT FORM

For UNLISTED ACTIONS Only

PART I - PROJECT INFORMATION (To be completed by Applicant or Project Sponsor)

1. APPLICANT/SPONSOR New York State Department of Environmental Conservation	2. PROJECT NAME Amendments to 6 NYCRR Part 597
3. PROJECT LOCATION: Municipality <u>Statewide</u> County <u>Statewide</u>	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) <u>Statewide</u>	
5. PROPOSED ACTION IS: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input checked="" type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: <u>See attached for description of this project.</u>	
7. AMOUNT OF LAND AFFECTED: Initially <u>N/A</u> acres Ultimately <u>N/A</u> acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input type="checkbox"/> No If No, describe briefly <u>Not Applicable</u>	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input type="checkbox"/> Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open Space <input type="checkbox"/> Other Describe: <u>Not Applicable</u>	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, list agency(s) name and permit/approvals:	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, list agency(s) name and permit/approvals:	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: <u>Robert W. Schick, Director, Division of Environmental Remediation</u> Date: <u>4/14/16</u> Signature: <u></u>	

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment

PART II - IMPACT ASSESSMENT (To be completed by Lead Agency)

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? If yes, coordinate the review process and use the FULL EAF.
 Yes No

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency.
 Yes No

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:
See attached for response to C1.

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:
See response in C1.

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:
See response in C1.

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:
See response in C1.

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:
See response in C1.

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:
See response in C1. There will be no adverse long or short term impacts resulting from this rulemaking.

C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly:
The promulgation of these amendments to Part 597 will not impact or change the use or type of energy consumed.

D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)?
 Yes No If Yes, explain briefly:

E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?
 Yes No If Yes, explain briefly:

PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

Check this box if you have identified one or more potentially large or significant adverse impacts which **MAY** occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.

Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action **WILL NOT** result in any significant adverse environmental impacts **AND** provide, on attachments as necessary, the reasons supporting this determination.

New York State Department of Environmental Conservation

Name of Lead Agency	Date
Robert W. Schick	4/14/16
Print or Type Name of Responsible Officer in Lead Agency	Director, Division of Environmental Remediation
Signature of Responsible Officer in Lead Agency	Title of Responsible Officer
[Angela Chieco]	Angela Chieco
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from responsible officer)

Reset

Attachment for
State Environmental Quality Review Short Environmental Assessment Form
Project Name: Amendments to 6 NYCRR Part 597

Part I, Item 6:

Title 1 of Article 37 of the Environmental Conservation Law (ECL), sections 37-0101 through 37-0111, “Substances Hazardous to the Environment” (Article 37), requires DEC to promulgate rules that contain lists of substances that are identified as hazardous or acutely hazardous according to criteria provided in the statute. See ECL section 37-0103. Such promulgated lists are provided in 6 NYCRR Part 597. Article 40 of the ECL, sections 40-0101 through 40-0121, “Hazardous Substances Bulk Storage Act” (Article 40), mandates the establishment of requirements for the safe storage and handling of hazardous substances in tanks at facilities.

The purpose of this emergency rule and proposed rule is to amend 6 NYCRR Part 597 to:

- (1) Add four new substances to the “List of Hazardous Substances” in Section 597.3:
 - a. perfluorooctanoic acid, CAS No. 335-67-1 (PFOA-acid);
 - b. ammonium perfluorooctanoate, CAS No. 3825-26-1 (PFOA-salt);
 - c. perfluorooctane sulfonic acid, CAS No. 1763-23-1 (PFOS-acid); and
 - d. perfluorooctane sulfonate, CAS No. 2795-39-3 (PFOS-salt);
- (2) Allow fire-fighting foam containing PFOA-acid, PFOA-salt, PFOS-acid, or PFOS-salt to be used to fight fires (but not for training or any other purposes) on or before April 25, 2017, a use which would not otherwise be allowed under the regulation since a release of a hazardous substance is prohibited; and
- (3) Correct the list of hazardous substances by providing units for the reportable quantities.

While the emergency rule allows the amendments to 6 NYCRR Part 597 to become effective the day that the Notice of Emergency Adoption and Proposed Rule Making is filed with the Department of State, the emergency adoption is temporary. The proposed rule provides for the amendments to become permanent upon adoption.

The industrial uses and the physical-chemical properties of PFOA-acid, PFOA-salt, PFOS-acid, and PFOS-salt are similar. These substances have been widely used in applications such as fire-fighting foam, stain-resistant carpet, and semiconductor coatings, among other things.

DEC has concluded that these substances meet the definition of a hazardous substance, and is adopting this emergency rule and proceeding with this proposed rule. This is based upon the conclusion of the New York State Department of Health (NYSDOH) that the combined weight of evidence from human and experimental animal studies indicates that prolonged exposure to significantly elevated levels of these compounds can affect health and, consequently, pose a threat to public health in New York State when improperly treated, stored, transported, disposed of or otherwise managed. NYSDOH scientists have concluded that it is essential to list these chemicals as hazardous substances. See the Regulatory Impact Statement for additional

information, including NYSDOH's letter requesting that these chemicals be added to the List of Hazardous Substances (Section 597.3).

Once substances are determined to be hazardous substances, DEC regulates their handling and storage and has authority to remediate sites contaminated with them. The Chemical Bulk Storage regulations (6 NYCRR 596-599) provide standards for the proper handling and storage of bulk quantities of hazardous substances to prevent spills and releases to the environment, prohibit the release of hazardous substances to the environment (subdivision 597.4(a)), and require the reporting of certain releases of hazardous substances to DEC. Certain facilities that store hazardous substances must apply to DEC for a registration certificate to operate. A new provision, paragraph 597.4(a)(3), will allow entities with fire-fighting foam the time necessary to determine whether stored foam contains one or more of these hazardous substances. If the stored foam contains one of these substances, the facility would be required to arrange for the proper disposal of the foam by April 25, 2017. Replacement foam may not contain a hazardous substance at a concentration that would result in the release of more than the reportable quantity (one pound) when used as a fire-fighting foam.

The United States Environmental Protection Agency has classified PFOA-related and PFOS-related substances as emerging contaminants that are extremely persistent in the environment and resistant to typical environmental degradation processes, and has established provisional drinking water advisories for these substances.

Part II, Items C1 – C6:

The proposed amendments to Part 597 will have positive environmental benefits based on the addition of PFOA-acid, PFOA-salt, PFOS-acid, and PFOS-salt to the List of Hazardous Substances (Section 597.3). The handling and storage of the four substances must meet the standards applicable to hazardous substances in the CBS regulations and DEC's remedial programs (6 NYCRR Part 375) will gain the authority to remediate sites contaminated with the four substances. Thus, adding these substances to Section 597.3 will enhance the protection of public health, including impacts associated with releases of these hazardous substances.

NEW YORK STATE DEPARTMENT OF STATE
COASTAL MANAGEMENT PROGRAM

Coastal Assessment Form

A. INSTRUCTIONS (Please print or type all answers)

1. State agencies shall complete this CAF for proposed actions which are subject to Part 600 of Title 19 of the NYCRR. This assessment is intended to supplement other information used by a state agency in making a determination of significance pursuant to the State Environmental Quality Review Act (see 6 NYCRR, Part 617). If it is determined that a proposed action will not have a significant effect on the environment, this assessment is intended to assist a state agency in complying with the certification requirements of 19 NYCRR Section 600.4.
2. If any question in Section C on this form is answered "yes", then the proposed action may affect the achievement of the coastal policies contained in Article 42 of the Executive Law. Thus, the action should be analyzed in more detail and, if necessary, modified prior to either (a) making a certification of consistency pursuant to 19 NYCRR Part 600 or, (b) making the findings required under SEQR, 6 NYCRR, Section 617.11, if the action is one for which an environmental impact statement is being prepared. If an action cannot be certified as consistent with the coastal policies, it shall not be undertaken.
3. Before answering the questions in Section C, the preparer of this form should review the coastal policies contained in 19 NYCRR Section 600.5. A proposed action should be evaluated as to its significant beneficial and adverse effects upon the coastal area.

B. DESCRIPTION OF PROPOSED ACTION

1. Type of state agency action (check appropriate response):

- (a) Directly undertaken (e.g. capital construction, planning activity, **agency regulation**, land transaction) X
- (b) Financial assistance (e.g. grant, loan, subsidy) _____
- (c) Permit, license, certification _____

2. Title 1 of Article 37 of the Environmental Conservation Law (ECL), sections 37-0101 through 37-0111, "Substances Hazardous to the Environment" (Article 37), requires New York State Department of Environmental Conservation (DEC) to promulgate rules that contain lists of substances that are identified as hazardous or acutely hazardous according to criteria provided in the statute. See ECL section 37-0103. Such promulgated lists are provided in 6 NYCRR Part 597. Article 40 of the ECL, sections 40-0101 through 40-0121, "Hazardous Substances Bulk Storage Act" (Article 40), mandates the establishment of requirements for the safe storage and handling of hazardous substances in tanks at facilities.

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The United States Environmental Protection Agency has classified PFOA-related and PFOS-related substances as emerging contaminants that are extremely persistent in the environment and resistant to typical environmental degradation processes, and has established provisional drinking water advisories for these substances.

3. Location of action: **STATEWIDE**

County	City, Town or Village	Street or Site Description
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4. If an application for the proposed action has been filed with the state agency, the following information shall be provided:

- (a) Name of applicant: N/A
- (b) Mailing address: N/A
- (c) Telephone Number: Area Code N/A
- (d) State agency application number: N/A

5. Will the action be directly undertaken, require funding, or approval by a federal agency?

Yes No If yes, which federal agency? _____

C. COASTAL ASSESSMENT (Check either "YES" or "NO" for each of the following questions)

1. Will the proposed activity be located in, or contiguous to, or have a significant effect upon any of the resource areas identified on the coastal area map:

- | | YES | NO |
|--|--------------------------|-------------------------------------|
| (a) Significant fish or wildlife habitats?..... | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (b) Scenic resources of statewide significance?..... | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (c) Important agricultural lands?..... | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

2. Will the proposed activity have a significant effect upon:
- (a) Commercial or recreational use of fish and wildlife resources? X
 - (b) Scenic quality of the coastal environment? X
 - (c) Development of future, or existing water dependent uses? X
 - (d) Operation of the State's major ports? X
 - (e) Land and water uses within the State's small harbors? X
 - (f) Existing or potential public recreation opportunities? X
 - (g) Structures, sites or districts of historic, archeological or cultural significance to the State or nation? X
3. Will the proposed activity involve or result in any of the following:
- (a) Physical alteration of two (2) acres or more of land along the shoreline, land under water or coastal waters? X
 - (b) Physical alteration of five (5) acres or more of land located elsewhere in the coastal area? X
 - (c) Expansion of existing public services of infrastructure in undeveloped or low density areas of the coastal area? X
 - (d) Energy facility not subject to Article VII or VIII of the Public Service Law? X
 - (e) Mining, excavation, filling or dredging in coastal waters? X
 - (f) Reduction of existing or potential public access to or along the shore? X
 - (g) Sale or change in use of state-owned lands located on the shoreline or under water? X
 - (h) Development within a designated flood or erosion hazard area? X
 - (i) Development on a beach, dune, barrier island or other natural feature that provides protection against flooding or erosion? X
4. Will the proposed action be located in or have a significant effect upon an area included in an approved Local Waterfront Revitalization Program? X

D. SUBMISSION REQUIREMENTS

If any question in Section C is answered "Yes", AND either of the following two conditions is met:

Section B.1(a) or B.1(b) is checked; or
 Section B.1(c) is checked AND B.5 is answered "Yes",

THEN one copy of the Completed Coastal Assessment Form shall be submitted to:

New York State Department of State
 Division of Coastal Resources
 41 State Street, 8th Floor
 Albany, New York 12231

If assistance of further information is needed to complete this form, call Department of State at (518) 474-6000.

E. REMARKS OR ADDITIONAL INFORMATION

Signature: 

Preparer's Name: Robert W. Schick

Title: Director, Division of Environmental Remediation

Agency: NYS Department of Environmental Conservation

Telephone Number: (518) 402-9706 Date: 4/14/16