

City Environmental Quality Review



Technical Manual

Appendices



Michael R. Bloomberg, Mayor
The City of New York

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PROCEDURES AND DOCUMENTATION APPENDIX

**2001 Technical Manual
Out of Date - DO NOT USE**

PROCEDURES AND DOCUMENTATION APPENDIX 1

**State Environmental Quality Review Act (SEQRA)
6 NYCRR Part 617**

**2001 Technical Manual
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Part 617 [1/1] *This regulation became effective July 12, 2000 and includes July 2001 DEC Central Office address changes.*

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6 NYCRR PART 617

STATE ENVIRONMENTAL QUALITY REVIEW

Statutory authority: Environmental Conservation Law

Sections 3-0301(1)(b), 3-0301(2)(m) and 8-0113

(Applicable to all state and local agencies within New York State

including all political subdivisions, districts, departments,

authorities, boards, commissions and public benefit corporations)

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ADOPTED: September 20, 1995 EFFECTIVE: January 1, 1996

LAST AMENDED June 26, 2000 EFFECTIVE: July 12, 2000

Includes July 2001 DEC Central Office address changes

§ 617.1 AUTHORITY, INTENT AND PURPOSE.

(a) This Part is adopted pursuant to sections 3-0301(1)(b), 3-0301(2)(m) and 8-0113 of the Environmental Conservation Law to implement the provisions of the State Environmental Quality Review Act (SEQR).

(b) In adopting SEQR, it was the Legislature's intention that all agencies conduct their affairs with an awareness that they are stewards of the air, water, land, and living resources, and that they have an obligation to protect the environment for the use and enjoyment of this and all future generations.

(c) The basic purpose of SEQR is to incorporate the consideration of environmental factors into the existing planning, review and decision-making processes of state, regional and local government agencies at the earliest possible time. To accomplish this goal, SEQR requires that all agencies determine whether the actions they directly undertake, fund or approve may have a significant impact on the environment, and, if it is determined that the action may have a significant adverse impact, prepare or request an environmental impact statement.

(d) It was the intention of the Legislature that the protection and enhancement of the environment, human and community resources should be given appropriate weight with social and economic considerations in determining public policy, and that those factors be considered together in reaching decisions on proposed activities. Accordingly, it is the intention of this Part that a suitable balance of social, economic and environmental factors be incorporated into the planning and decision-making processes of state, regional and local agencies. It is not the intention of SEQR that environmental factors be the sole consideration in decision-making.

(e) This Part is intended to provide a statewide regulatory framework for the implementation of SEQR by all state and local agencies. It includes:

- (1) procedural requirements for compliance with the law;
- (2) provisions for coordinating multiple agency environmental reviews through a single lead agency (section 617.6 of this Part);
- (3) criteria to determine whether a proposed action may have a significant adverse impact on the environment (section 617.7 of this Part);
- (4) model environmental assessment forms to aid in determining whether an action may have a significant adverse impact on the environment (Appendices A, B and C of section 617.20 of this Part); and
- (5) examples of actions and classes of actions which are likely to require an EIS (section 617.4 of this Part), and those which will not require an EIS (section 617.5 of this Part). [\(Top of Page\)](#)

§617.2 DEFINITIONS .

As used in this Part, unless the context otherwise requires:

- (a) *Act* means article 8 of the Environmental Conservation Law (SEQR).
- (b) *Actions* include:
 - (1) projects or physical activities, such as construction or other activities that may affect the environment by changing the use, appearance or condition of any natural resource or structure, that:
 - (i) are directly undertaken by an agency; or
 - (ii) involve funding by an agency; or
 - (iii) require one or more new or modified approvals from an agency or agencies;
 - (2) agency planning and policy making activities that may affect the environment and commit the agency to a definite course of future decisions;
 - (3) adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect the environment; and
 - (4) any combinations of the above.
- (c) *Agency* means a state or local agency.
- (d) *Applicant* means any person making an application or other request to an agency to provide funding or to grant an approval in connection with a proposed action.
- (e) *Approval* means a discretionary decision by an agency to issue a permit, certificate, license, lease or other entitlement or to otherwise authorize a proposed project or activity.

- (f) *Coastal area* means the state's coastal waters and the adjacent shorelands, as defined in article 42 of the Executive Law, the specific boundaries of which are shown on the coastal area map on file in the Office of the Secretary of State, as required by section 914(2) of the Executive Law.
- (g) *Commissioner* means the Commissioner of the New York State Department of Environmental Conservation.
- (h) *Conditioned negative declaration* (CND) means a negative declaration issued by a lead agency for an Unlisted action, involving an applicant, in which the action as initially proposed may result in one or more significant adverse environmental impacts; however, mitigation measures identified and required by the lead agency, pursuant to the procedures in subdivision 617.7(d) of this Part, will modify the proposed action so that no significant adverse environmental impacts will result.
- (i) *Critical environmental area* (CEA) means a specific geographic area designated by a state or local agency, having exceptional or unique environmental characteristics.
- (j) *Department* means the New York State Department of Environmental Conservation.
- (k) *Direct action or directly undertaken action* means an action planned and proposed for implementation by an agency. "Direct actions" include but are not limited to capital projects, promulgation of agency rules, regulations, laws, codes, ordinances or executive orders and policy making that commit an agency to a course of action that may affect the environment.
- (l) *Environment* means the physical conditions that will be affected by a proposed action, including land, air, water, minerals, flora, fauna, noise, resources of agricultural, archaeological, historic or aesthetic significance, existing patterns of population concentration, distribution or growth, existing community or neighborhood character, and human health.
- (m) *Environmental assessment form* (EAF) means a form used by an agency to assist it in determining the environmental significance or nonsignificance of actions. A properly completed EAF must contain enough information to describe the proposed action, its location, its purpose and its potential impacts on the environment. The model full and short EAFs contained in Appendices A and C of section 617.20 of this Part may be modified by an agency to better serve it in implementing SEQR, provided the scope of the modified form is as comprehensive as the model.
- (n) *Environmental impact statement* (EIS) means a written "draft" or "final" document prepared in accordance with sections 617.9 and 617.10 of this Part. An EIS provides a means for agencies, project sponsors and the public to systematically consider significant adverse environmental impacts, alternatives and mitigation. An EIS facilitates the weighing of social, economic and environmental factors early in the planning and decision-making process. A draft EIS is the initial statement prepared by either the project sponsor or the lead agency and circulated for review and comment. An EIS may also be a "generic" in accordance with section 617.10, of this Part, a "supplemental" in accordance with paragraph 617.9(a)(7) of this Part or a "federal" document in accordance with section 617.15 of this Part.
- (o) *Environmental Notice Bulletin* (ENB) means the weekly publication of the department published pursuant to section 3-0306 of the Environmental Conservation Law, and accessible on the department's internet web site at <http://www.dec.state.ny.us>.
- (p) *Findings statement* means a written statement prepared by each involved agency, in accordance with section 617.11 of this Part, after a final EIS has been filed, that considers the relevant environmental impacts presented in an EIS, weighs and balances them with social, economic and other essential considerations, provides a rationale for the agency's decision and certifies that the SEQR requirements have been met.
- (q) *Funding* means any financial support given by an agency, including contracts, grants, subsidies, loans or other forms of direct or indirect financial assistance, in connection with a proposed action.

(r) *Impact* means to change or have an effect on any aspect(s) of the environment.

(s) *Involved agency* means an agency that has jurisdiction by law to fund, approve or directly undertake an action. If an agency will ultimately make a discretionary decision to fund, approve or undertake an action, then it is an "involved agency", notwithstanding that it has not received an application for funding or approval at the time the SEQR process is commenced. The lead agency is also an "involved agency".

(t) *Interested agency* means an agency that lacks the jurisdiction to fund, approve or directly undertake an action but wishes to participate in the review process because of its specific expertise or concern about the proposed action. An "interested agency" has the same ability to participate in the review process as a member of the public.

(u) *Lead agency* means an involved agency principally responsible for undertaking, funding or approving an action, and therefore responsible for determining whether an environmental impact statement is required in connection with the action, and for the preparation and filing of the statement if one is required.

(v) *Local agency* means any local agency, board, authority, district, commission or governing body, including any city, county and other political subdivision of the state.

(w) *Ministerial act* means an action performed upon a given state of facts in a prescribed manner imposed by law without the exercise of any judgment or discretion as to the propriety of the act, such as the granting of a hunting or fishing license.

(x) *Mitigation* means a way to avoid or minimize adverse environmental impacts.

(y) *Negative declaration* means a written determination by a lead agency that the implementation of the action as proposed will not result in any significant adverse environmental impacts. A negative declaration may also be a conditioned negative declaration as defined in subdivision 617.2(h). Negative declarations must be prepared, filed and published in accordance with sections 617.7 and 617.12 of this Part.

(z) *Person* means any agency, individual, corporation, governmental entity, partnership, association, trustee or other legal entity.

(aa) *Permit* means a permit, lease, license, certificate or other entitlement for use or permission to act that may be granted or issued by an agency.

(ab) *Physical alteration* includes, but is not limited to, the following activities: vegetation removal, demolition, stockpiling materials, grading and other forms of earthwork, dumping, filling or depositing, discharges to air or water, excavation or trenching, application of pesticides, herbicides, or other chemicals, application of sewage sludge, dredging, flooding, draining or dewatering, paving, construction of buildings, structures or facilities, and extraction, injection or recharge of resources below ground.

(ac) *Positive declaration* means a written statement prepared by the lead agency indicating that implementation of the action as proposed may have a significant adverse impact on the environment and that an environmental impact statement will be required. Positive declarations must be prepared, filed and published in accordance with sections 617.7 and 617.12 of this Part.

(ad) *Project sponsor* means any applicant or agency primarily responsible for undertaking an action.

(ae) *Residential* means any facility used for permanent or seasonal habitation, including but not limited to: realty subdivisions, apartments, mobile home parks, and campsites offering any utility hookups for recreational vehicles. It does not include such facilities as hotels, hospitals, nursing homes, dormitories or prisons.

(af) *Scoping* means the process by which the lead agency identifies the potentially significant adverse impacts related to the proposed action that are to be addressed in the draft EIS including the content and level of detail of the analysis, the range of alternatives, the mitigation measures needed and the identification of nonrelevant issues. Scoping provides a project sponsor with guidance on matters which must be considered and provides an opportunity for early participation by involved agencies and the public in the review of the proposal.

(ag) *Segmentation* means the division of the environmental review of an action such that various activities or stages are addressed under this Part as though they were independent, unrelated activities, needing individual determinations of significance.

(ah) *State agency* means any state department, agency, board, public benefit corporation, public authority or commission.

(ai) *Type I action* means an action or class of actions identified in section 617.4 of this Part, or in any involved agency's procedures adopted pursuant to section 617.14 of this Part.

(aj) *Type II action* means an action or class of actions identified in section 617.5 of this Part. When the term is applied in reference to an individual agency's authority to review or approve a particular proposed project or action, it shall also mean an action or class of actions identified as Type II actions in that agency's own procedures to implement SEQR adopted pursuant to section 617.14 of this Part. The fact that an action is identified as a Type II action in any agency's procedures does not mean that it must be treated as a Type II action by any other involved agency not identifying it as a Type II action in its procedures.

(ak) *Unlisted action* means all actions not identified as a Type I or Type II action in this Part, or, in the case of a particular agency action, not identified as a Type I or Type II action in the agency's own SEQR procedures. ([Top of Page](#))

§617.3 GENERAL RULES .

(a) No agency involved in an action may undertake, fund or approve the action until it has complied with the provisions of SEQR. A project sponsor may not commence any physical alteration related to an action until the provisions of SEQR have been complied with. The only exception to this is provided under paragraphs 617.5(c)(18), (21) and (28) of this Part. An involved agency may not issue its findings and decision on an action if it knows any other involved agency has determined that the action may have a significant adverse impact on the environment until a final EIS has been filed. The only exception to this is provided under subparagraph 617.9(a)(5)(i) of this Part.

(b) SEQR does not change the existing jurisdiction of agencies nor the jurisdiction between or among state and local agencies. SEQR provides all involved agencies with the authority, following the filing of a final EIS and written findings statement, or pursuant to subdivision 617.7(d) of this Part to impose substantive conditions upon an action to ensure that the requirements of this Part have been satisfied. The conditions imposed must be practicable and reasonably related to impacts identified in the EIS or the conditioned negative declaration.

(c) An application for agency funding or approval of a Type I or Unlisted action will not be complete until:

(1) a negative declaration has been issued; or

(2) until a draft EIS has been accepted by the lead agency as satisfactory with respect to scope, content and adequacy. When the draft EIS is accepted, the SEQR process will run concurrently with other procedures relating to the review and approval of the action, if reasonable time is provided for preparation, review and public hearings with respect to the draft EIS.

(d) The lead agency will make every reasonable effort to involve project sponsors, other agencies and the public in the SEQR process. Early consultations initiated by agencies can serve to narrow issues of significance and to identify areas

of controversy relating to environmental issues, thereby focusing on the impacts and alternatives requiring in-depth analysis in an EIS.

(e) Each agency involved in a proposed action has the responsibility to provide the lead agency with information it may have that may assist the lead agency in making its determination of significance, to identify potentially significant adverse impacts in the scoping process, to comment in a timely manner on the EIS if it has concerns which need to be addressed and to participate, as may be needed, in any public hearing. Interested agencies are strongly encouraged to make known their views on the action, particularly with respect to their areas of expertise and jurisdiction.

(f) No SEQR determination of significance, EIS or findings statement is required for actions which are Type II.

(g) Actions commonly consist of a set of activities or steps. The entire set of activities or steps must be considered the action, whether the agency decision-making relates to the action as a whole or to only a part of it.

(1) Considering only a part or segment of an action is contrary to the intent of SEQR. If a lead agency believes that circumstances warrant a segmented review, it must clearly state in its determination of significance, and any subsequent EIS, the supporting reasons and must demonstrate that such review is clearly no less protective of the environment. Related actions should be identified and discussed to the fullest extent possible.

(2) If it is determined that an EIS is necessary for an action consisting of a set of activities or steps, only one draft and one final EIS need be prepared on the action provided that the statement addresses each part of the action at a level of detail sufficient for an adequate analysis of the significant adverse environmental impacts. Except for a supplement to a generic environmental impact statement (see subdivision 617.10(d) of this Part), a supplement to a draft or final EIS will only be required in the circumstances prescribed in paragraph 617.9(a)(7) of this Part.

(h) Agencies must carry out the terms and requirements of this Part with minimum procedural and administrative delay, must avoid unnecessary duplication of reporting and review requirements by providing, where feasible, for combined or consolidated proceedings, and must expedite all SEQR proceedings in the interest of prompt review.

(i) Time periods in this Part may be extended by mutual agreement between a project sponsor and the lead agency, with notice to all other involved agencies by the lead agency ([Top of Page](#))

§617.4 TYPE I ACTIONS .

(a) The purpose of the list of Type I actions in this section is to identify, for agencies, project sponsors and the public, those actions and projects that are more likely to require the preparation of an EIS than Unlisted actions. All agencies are subject to this Type I list.

(1) This Type I list is not exhaustive of those actions that an agency determines may have a significant adverse impact on the environment and require the preparation of an EIS. However, the fact that an action or project has been listed as a Type I action carries with it the presumption that it is likely to have a significant adverse impact on the environment and may require an EIS. For all individual actions which are Type I or Unlisted, the determination of significance must be made by comparing the impacts which may be reasonably expected to result from the proposed action with the criteria listed in subdivision 617.7(c) of this Part.

(2) Agencies may adopt their own lists of additional Type I actions, may adjust the thresholds to make them more inclusive, and may continue to use previously adopted lists of Type I actions to complement those contained in this section. Designation of a Type I action by one involved agency requires coordinated review by all involved agencies. An agency may not designate as Type I any action identified as Type II in section 617.5 of this Part.

(b) The following actions are Type I if they are to be directly undertaken, funded or approved by an agency:

(1) the adoption of a municipality's land use plan, the adoption by any agency of a comprehensive resource management plan or the initial adoption of a municipality's comprehensive zoning regulations;

(2) the adoption of changes in the allowable uses within any zoning district, affecting 25 or more acres of the district;

(3) the granting of a zoning change, at the request of an applicant, for an action that meets or exceeds one or more of the thresholds given elsewhere in this list;

(4) the acquisition, sale, lease, annexation or other transfer of 100 or more contiguous acres of land by a state or local agency;

(5) construction of new residential units that meet or exceed the following thresholds:

(i) 10 units in municipalities that have not adopted zoning or subdivision regulations;

(ii) 50 units not to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works;

(iii) in a city, town or village having a population of less than 150,000, 250 units to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works;

(iv) in a city, town or village having a population of greater than 150,000 but less than 1,000,000, 1,000 units to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works;

(v) in a city or town having a population of greater than 1,000,000, 2,500 units to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works;

(6) activities, other than the construction of residential facilities, that meet or exceed any of the following thresholds; or the expansion of existing nonresidential facilities by more than 50 percent of any of the following thresholds:

(i) a project or action that involves the physical alteration of 10 acres;

(ii) a project or action that would use ground or surface water in excess of 2,000,000 gallons per day;

(iii) parking for 1,000 vehicles;

(iv) in a city, town or village having a population of 150,000 persons or less, a facility with more than 100,000 square feet of gross floor area;

(v) in a city, town or village having a population of more than 150,000 persons, a facility with more than 240,000 square feet of gross floor area;

(7) any structure exceeding 100 feet above original ground level in a locality without any zoning regulation pertaining to height;

(8) any Unlisted action that includes a nonagricultural use occurring wholly or partially within an agricultural district (certified pursuant to Agriculture and Markets Law, article 25-AA, sections 303 and 304) and exceeds 25 percent of any threshold established in this section;

(9) any Unlisted action (unless the action is designed for the preservation of the facility or site) occurring wholly or partially within, or substantially contiguous to, any historic building, structure, facility, site or district or prehistoric site that is listed on the National Register of Historic Places, or that has been proposed by the New York State Board on Historic Preservation for a recommendation to the State Historic Preservation Officer for nomination for inclusion in the National Register, or that is listed on the State Register of Historic Places (The National Register of Historic Places is established by 36 Code of Federal Regulation (CFR) Parts 60 and 63, 1994 (see section 617.17 of this Part));

(10) any Unlisted action, that exceeds 25 percent of any threshold in this section, occurring wholly or partially within or substantially contiguous to any publicly owned or operated parkland, recreation area or designated open space, including any site on the Register of National Natural Landmarks pursuant to 36 CFR Part 62, 1994 (see section 617.17 of this Part); or

(11) any Unlisted action that exceeds a Type I threshold established by an involved agency pursuant to section 617.14 of this Part. ([Top of Page](#))

617.5 TYPE II ACTIONS .

(a) Actions or classes of actions identified in subdivision (c) of this section are not subject to review under this Part. These actions have been determined not to have a significant impact on the environment or are otherwise precluded from environmental review under Environmental Conservation Law, article 8. The actions identified in subdivision (c) of this section apply to all agencies.

(b) Each agency may adopt its own list of Type II actions to supplement the actions in subdivision (c) of this section. No agency is bound by an action on another agency's Type II list. An agency that identifies an action as not requiring any determination or procedure under this Part is not an involved agency. Each of the actions on an agency Type II list must:

(1) in no case, have a significant adverse impact on the environment based on the criteria contained in subdivision 617.7(c) of this Part; and

(2) not be a Type I action as defined in section 617.4 of this Part.

(c) The following actions are not subject to review under this Part:

(1) maintenance or repair involving no substantial changes in an existing structure or facility;

(2) replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes, unless such action meets or exceeds any of the thresholds in section 617.4 of this Part;

(3) agricultural farm management practices, including construction, maintenance and repair of farm buildings and structures, and land use changes consistent with generally accepted principles of farming;

(4) repaving of existing highways not involving the addition of new travel lanes;

(5) street openings and right-of-way openings for the purpose of repair or maintenance of existing utility facilities;

- (6) maintenance of existing landscaping or natural growth;
- (7) construction or expansion of a primary or accessory/appurtenant, non-residential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls, but not radio communication or microwave transmission facilities;
- (8) routine activities of educational institutions, including expansion of existing facilities by less than 10,000 square feet of gross floor area and school closings, but not changes in use related to such closings;
- (9) construction or expansion of a single-family, a two-family or a three-family residence on an approved lot including provision of necessary utility connections as provided in paragraph (11) and the installation, maintenance and/or upgrade of a drinking water well and a septic system;
- (10) construction, expansion or placement of minor accessory/appurtenant residential structures, including garages, carports, patios, decks, swimming pools, tennis courts, satellite dishes, fences, barns, storage sheds or other buildings not changing land use or density;
- (11) extension of utility distribution facilities, including gas, electric, telephone, cable, water and sewer connections to render service in approved subdivisions or in connection with any action on this list;
- (12) granting of individual setback and lot line variances;
- (13) granting of an area variance(s) for a single-family, two-family or three-family residence;
- (14) public or private best forest management (silvicultural) practices on less than 10 acres of land, but not including waste disposal, land clearing not directly related to forest management, clear-cutting or the application of herbicides or pesticides;
- (15) minor temporary uses of land having negligible or no permanent impact on the environment;
- (16) installation of traffic control devices on existing streets, roads and highways;
- (17) mapping of existing roads, streets, highways, natural resources, land uses and ownership patterns;
- (18) information collection including basic data collection and research, water quality and pollution studies, traffic counts, engineering studies, surveys, subsurface investigations and soils studies that do not commit the agency to undertake, fund or approve any Type I or Unlisted action;
- (19) official acts of a ministerial nature involving no exercise of discretion, including building permits and historic preservation permits where issuance is predicated solely on the applicant's compliance or noncompliance with the relevant local building or preservation code(s);
- (20) routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment;
- (21) conducting concurrent environmental, engineering, economic, feasibility and other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action, provided those activities do not commit the agency to commence, engage in or approve such action;
- (22) collective bargaining activities;

- (23) investments by or on behalf of agencies or pension or retirement systems, or refinancing existing debt;
- (24) inspections and licensing activities relating to the qualifications of individuals or businesses to engage in their business or profession;
- (25) purchase or sale of furnishings, equipment or supplies, including surplus government property, other than the following: land, radioactive material, pesticides, herbicides, or other hazardous materials;
- (26) license, lease and permit renewals, or transfers of ownership thereof, where there will be no material change in permit conditions or the scope of permitted activities;
- (27) adoption of regulations, policies, procedures and local legislative decisions in connection with any action on this list;
- (28) engaging in review of any part of an application to determine compliance with technical requirements, provided that no such determination entitles or permits the project sponsor to commence the action unless and until all requirements of this Part have been fulfilled;
- (29) civil or criminal enforcement proceedings, whether administrative or judicial, including a particular course of action specifically required to be undertaken pursuant to a judgment or order, or the exercise of prosecutorial discretion;
- (30) adoption of a moratorium on land development or construction;
- (31) interpreting an existing code, rule or regulation;
- (32) designation of local landmarks or their inclusion within historic districts;
- (33) emergency actions that are immediately necessary on a limited and temporary basis for the protection or preservation of life, health, property or natural resources, provided that such actions are directly related to the emergency and are performed to cause the least change or disturbance, practicable under the circumstances, to the environment. Any decision to fund, approve or directly undertake other activities after the emergency has expired is fully subject to the review procedures of this Part;
- (34) actions undertaken, funded or approved prior to the effective dates set forth in SEQRA (see chapters 228 of the Laws of 1976, 253 of the Laws of 1977 and 460 of the Laws of 1978), except in the case of an action where it is still practicable either to modify the action in such a way as to mitigate potentially adverse environmental impacts, or to choose a feasible or less environmentally damaging alternative, the commissioner may, at the request of any person, or on his own motion, require the preparation of an environmental impact statement, or, in the case of an action where the responsible agency proposed a modification of the action and the modification may result in a significant adverse impact on the environment, an environmental impact statement must be prepared with respect to such modification;
- (35) actions requiring a certificate of environmental compatibility and public need under articles VII, VIII or X of the Public Service Law and the consideration of, granting or denial of any such certificate;
- (36) actions subject to the class A or class B regional project jurisdiction of the Adirondack Park Agency or a local government pursuant to section 807, 808 and 809 of the Executive Law, except class B regional projects subject to review by local government pursuant to section 807 of the Executive Law located within the Lake George Park as defined by subdivision one of section 43-0103 of the Environmental Conservation Law; and

(37) actions of the Legislature and the Governor of the State of New York or of any court, but not actions of local legislative bodies except those local legislative decisions such as rezoning where the local legislative body determines the action will not be entertained. [\(Top of Page\)](#)

§617.6 INITIAL REVIEW OF ACTIONS AND ESTABLISHING LEAD AGENCY.

(a) Initial review of actions.

(1) As early as possible in an agency's formulation of an action it proposes to undertake, or as soon as an agency receives an application for funding or for approval of an action, it must do the following:

(i) Determine whether the action is subject to SEQR. If the action is a Type II action, the agency has no further responsibilities under this Part.

(ii) Determine whether the action involves a federal agency. If the action involves a federal agency, the provisions of section 617.15 of this Part apply.

(iii) Determine whether the action may involve one or more other agencies.

(iv) Make a preliminary classification of an action as Type I or Unlisted, using the information available and comparing it with the thresholds set forth in section 617.4 of this Part. Such preliminary classification will assist in determining whether a full EAF and coordinated review is necessary.

(2) For Type I actions, a full EAF (see section 617.20, Appendix A, of this Part) must be used to determine the significance of such actions. The project sponsor must complete Part 1 of the full EAF, including a list of all other involved agencies that the project sponsor has been able to identify, exercising all due diligence. The lead agency is responsible for preparing Part 2 and, as needed, Part 3.

(3) For Unlisted actions, the short EAF (see section 617.20, Appendix C, of this Part) must be used to determine the significance of such actions. However, an agency may instead use the full EAF for Unlisted actions if the short EAF would not provide the lead agency with sufficient information on which to base its determination of significance. The lead agency may require other information necessary to determine significance.

(4) An agency may waive the requirement for an EAF if a draft EIS is prepared or submitted. The draft EIS may be treated as an EAF for the purpose of determining significance.

(5) For state agencies only, determine whether the action is located in the coastal area. If the action is either Type I or Unlisted and is in the coastal area, the provisions of 19 NYCRR 600 also apply. This provision applies to all state agencies, whether acting as a lead or involved agency.

(6) Determine whether the Type I or Unlisted action is located in an agricultural district and comply with the provisions of subdivision (4) of section 305 of article 25-AA of the Agriculture and Markets Law, if applicable.

(b) Establishing lead agency.

(1) When a single agency is involved, that agency will be the lead agency when it proposes to undertake, fund or approve a Type I or Unlisted action that does not involve another agency.

(i) If the agency is directly undertaking the action, it must determine the significance of the

action as early as possible in the design or formulation of the action.

(ii) If the agency has received an application for funding or approval of the action, it must determine the significance of the action within 20 calendar days of its receipt of the application, an EAF, or any additional information reasonably necessary to make that determination, whichever is later.

(2) When more than one agency is involved:

(i) For all Type I actions and for coordinated review of Unlisted actions involving more than one agency, a lead agency must be established prior to a determination of significance. For Unlisted actions where there will be no coordinated review, the procedures in paragraph 617.6(b)(4) of this Part must be followed.

(ii) When an agency has been established as the lead agency for an action involving an applicant and has determined that an EIS is required, it must, in accordance with subdivision 617.12(b) of this Part, promptly notify the applicant and all other involved agencies, in writing, that it is the lead agency, that an EIS is required and whether scoping will be conducted.

(iii) The lead agency will continue in that role until it files either a negative declaration or a findings statement or a lead agency is re-established in accordance with paragraph 617.6(b)(6) of this Part.

(3) Coordinated review.

(i) When an agency proposes to directly undertake, fund or approve a Type I action or an Unlisted action undergoing coordinated review with other involved agencies, it must, as soon as possible, transmit Part 1 of the EAF completed by the project sponsor, or a draft EIS and a copy of any application it has received to all involved agencies and notify them that a lead agency must be agreed upon within 30 calendar days of the date the EAF or draft EIS was transmitted to them. For the purposes of this Part, and unless otherwise specified by the department, all coordination and filings with the department as an involved agency must be with the appropriate regional office of the department.

(ii) The lead agency must determine the significance of the action within 20 calendar days of its establishment as lead agency, or within 20 calendar days of its receipt of all information it may reasonably need to make the determination of significance, whichever occurs later, and must immediately prepare, file and publish the determination in accordance with section 617.12 of this Part.

(iii) If a lead agency exercises due diligence in identifying all other involved agencies and provides written notice of its determination of significance to the identified involved agencies, then no involved agency may later require the preparation of an EAF, a negative declaration or an EIS in connection with the action. The determination of significance issued by the lead agency following coordinated review is binding on all other involved agencies.

(4) Uncoordinated review for Unlisted actions involving more than one agency.

(i) An agency conducting an uncoordinated review may proceed as if it were the only involved agency pursuant to subdivision (a) of this section unless and until it determines that an action may have a significant adverse impact on the environment.

(ii) If an agency determines that the action may have a significant adverse impact on the environment, it must then coordinate with other involved agencies.

(iii) At any time prior to its final decision an agency may have its negative declaration superseded by a positive declaration by any other involved agency.

(5) Actions for which lead agency cannot be agreed upon.

(i) If, within the 30 calendar days allotted for establishment of lead agency, the involved agencies are unable to agree upon which agency will be the lead agency, any involved agency or the project sponsor may request, by certified mail or other form of receipted delivery to the commissioner, that a lead agency be designated. Simultaneously, copies of the request must be sent by certified mail or other form of receipted delivery to all involved agencies and the project sponsor. Any agency raising a dispute must be ready to assume the lead agency functions if such agency is designated by the commissioner.

(ii) The request must identify each involved agency's jurisdiction over the action, and all relevant information necessary for the commissioner to apply the criteria in subparagraph (v) of this subdivision, and state that all comments must be submitted to the commissioner within 10 calendar days after receipt of the request.

(iii) Within 10 calendar days of the date a copy of the request is received by them, involved agencies and the project sponsor may submit to the commissioner any comments they may have on the action. Such comments must contain the information indicated in subparagraph (ii) of this subdivision.

(iv) The commissioner must designate a lead agency within 20 calendar days of the date the request or any supplemental information the commissioner has required is received, based on a review of the facts, the criteria below, and any comments received.

(v) The commissioner will use the following criteria, in order of importance, to designate lead agency:

(a) whether the anticipated impacts of the action being considered are primarily of statewide, regional, or local significance (i.e., if such impacts are of primarily local significance, all other considerations being equal, the local agency involved will be lead agency);

(b) which agency has the broadest governmental powers for investigation of the impact(s) of the proposed action; and

(c) which agency has the greatest capability for providing the most thorough environmental assessment of the proposed action.

(vi) Notice of the commissioner's designation of lead agency will be mailed to all involved agencies and the project sponsor.

(6) Re-establishment of lead agency.

(i) Re-establishment of lead agency may occur by agreement of all involved agencies in the following circumstances:

- (a) for a supplement to a final EIS or generic EIS;
- (b) upon failure of the lead agency's basis of jurisdiction; or
- (c) upon agreement of the project sponsor, prior to the acceptance of a draft EIS.

(ii) Disputes concerning re-establishment of lead agency for a supplement to a final EIS or generic EIS are subject to the designation procedures contained in paragraph (5) of subdivision (b) of this section.

(iii) Notice of re-establishment of lead agency must be given by the new lead agency to the project sponsor within 10 days of its establishment. [\(Top of Page\)](#)

§617.7 DETERMINING SIGNIFICANCE.

(a) The lead agency must determine the significance of any Type I or Unlisted action in writing in accordance with this section.

(1) To require an EIS for a proposed action, the lead agency must determine that the action may include the potential for at least one significant adverse environmental impact.

(2) To determine that an EIS will not be required for an action, the lead agency must determine either that there will be no adverse environmental impacts or that the identified adverse environmental impacts will not be significant.

(b) For all Type I and Unlisted actions the lead agency making a determination of significance must:

(1) consider the action as defined in subdivisions 617.2(b) and 617.3(g) of this Part;

(2) review the EAF, the criteria contained in subdivision (c) of this section and any other supporting information to identify the relevant areas of environmental concern;

(3) thoroughly analyze the identified relevant areas of environmental concern to determine if the action may have a significant adverse impact on the environment; and

(4) set forth its determination of significance in a written form containing a reasoned elaboration and providing reference to any supporting documentation.

(c) Criteria for determining significance.

(1) To determine whether a proposed Type I or Unlisted action may have a significant adverse impact on the environment, the impacts that may be reasonably expected to result from the proposed action must be compared against the criteria in this subdivision. The following list is illustrative, not exhaustive. These criteria are considered indicators of significant adverse impacts on the environment:

(i) a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels; a substantial increase in solid waste production; a substantial increase in potential for erosion, flooding, leaching or drainage problems;

(ii) the removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial adverse impacts on a threatened or endangered species

of animal or plant, or the habitat of such a species; or other significant adverse impacts to natural resources;

(iii) the impairment of the environmental characteristics of a Critical Environmental Area as designated pursuant to subdivision 617.14(g) of this Part;

(iv) the creation of a material conflict with a community's current plans or goals as officially approved or adopted;

(v) the impairment of the character or quality of important historical, archaeological, architectural, or aesthetic resources or of existing community or neighborhood character;

(vi) a major change in the use of either the quantity or type of energy;

(vii) the creation of a hazard to human health;

(viii) a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses;

(ix) the encouraging or attracting of a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the action;

(x) the creation of a material demand for other actions that would result in one of the above consequences;

(xi) changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment; or

(xii) two or more related actions undertaken, funded or approved by an agency, none of which has or would have a significant impact on the environment, but when considered cumulatively would meet one or more of the criteria in this subdivision.

(2) For the purpose of determining whether an action may cause one of the consequences listed in paragraph (1) of this subdivision, the lead agency must consider reasonably related long-term, short-term, direct, indirect and cumulative impacts, including other simultaneous or subsequent actions which are:

(i) included in any long-range plan of which the action under consideration is a part;

(ii) likely to be undertaken as a result thereof; or

(iii) dependent thereon.

(3) The significance of a likely consequence (i.e., whether it is material, substantial, large or important) should be assessed in connection with:

(i) its setting (e.g., urban or rural);

(ii) its probability of occurrence;

(iii) its duration;

- (iv) its irreversibility;
- (v) its geographic scope;
- (vi) its magnitude; and
- (vii) the number of people affected.

(d) Conditioned negative declarations.

(1) For Unlisted actions involving an applicant, a lead agency may prepare a conditioned negative declaration (CND) provided that it:

- (i) has completed a full EAF;
- (ii) has completed a coordinated review in accordance with paragraph 617.6(b)(3) of this Part;
- (iii) has imposed SEQR conditions pursuant to subdivision 617.3(b) of this Part that have mitigated all significant environmental impacts and are supported by the full EAF and any other documentation;
- (iv) has published a notice of a CND in the ENB and a minimum 30-day public comment period has been provided. The notice must state what conditions have been imposed. An agency may also use its own public notice and review procedures, provided the notice states that a CND has been issued, states what conditions have been imposed and allows for a minimum 30-day public comment period; and
- (v) has complied with subdivisions 617.7(b) and 617.12(a) and (b) of this Part.

(2) A lead agency must rescind the CND and issue a positive declaration requiring the preparation of a draft EIS if it receives substantive comments that identify:

- (i) potentially significant adverse environmental impacts that were not previously identified and assessed or were inadequately assessed in the review; or
- (ii) a substantial deficiency in the proposed mitigation measures.

(3) The lead agency must require an EIS if requested by the applicant.

(e) Amendment of a negative declaration.

(1) At any time prior to its decision to undertake, fund or approve an action, a lead agency, at its discretion, may amend a negative declaration when substantive:

- (i) changes are proposed for the project; or
- (ii) new information is discovered; or
- (iii) changes in circumstances related to the project arise; that were not previously considered and the lead agency determines that no significant adverse environmental impacts will occur.

(2) The lead agency must prepare, file and publish the amended negative declaration in accordance with

section 617.12 of this Part. The amended negative declaration must contain reference to the original negative declaration and discuss the reasons supporting the amended determination.

(f) Rescission of negative declarations.

(1) At any time prior to its decision to undertake, fund or approve an action, a lead agency must rescind a negative declaration when substantive:

(i) changes are proposed for the project; or

(ii) new information is discovered; or

(iii) changes in circumstances related to the project arise; that were not previously considered and the lead agency determines that a significant adverse environmental impact may result.

(2) Prior to any rescission, the lead agency must inform other involved agencies and the project sponsor and must provide a reasonable opportunity for the project sponsor to respond.

(3) If, following reasonable notice to the project sponsor, its determination is the same, the lead agency must prepare, file and publish a positive declaration in accordance with section 617.12 of this Part. ([Top of Page](#))

§617.8 SCOPING .

(a) The primary goals of scoping are to focus the EIS on potentially significant adverse impacts and to eliminate consideration of those impacts that are irrelevant or nonsignificant. Scoping is not required. Scoping may be initiated by the lead agency or the project sponsor.

(b) If scoping is conducted, the project sponsor must submit a draft scope that contains the items identified in paragraphs 617.8(f)(1) through (5) of this section to the lead agency. The lead agency must provide a copy of the draft scope to all involved agencies, and make it available to any individual or interested agency that has expressed an interest in writing to the lead agency.

(c) If scoping is not conducted, the project sponsor may prepare a draft EIS for submission to the lead agency.

(d) Involved agencies should provide written comments reflecting their concerns, jurisdictions and information needs sufficient to ensure that the EIS will be adequate to support their SEQR findings. Failure of an involved agency to participate in the scoping process will not delay completion of the final written scope.

(e) Scoping must include an opportunity for public participation. The lead agency may either provide a period of time for the public to review and provide written comments on a draft scope or provide for public input through the use of meetings, exchanges of written material, or other means.

(f) The lead agency must provide a final written scope to the project sponsor, all involved agencies and any individual that has expressed an interest in writing to the lead agency within 60 days of its receipt of a draft scope. The final written scope should include:

(1) a brief description of the proposed action;

(2) the potentially significant adverse impacts identified both in the positive declaration and as a result of consultation with the other involved agencies and the public, including an identification of those particular aspect(s) of the environmental setting that may be impacted;

(3) the extent and quality of information needed for the preparer to adequately address each impact, including an identification of relevant existing information, and required new information, including the required methodology(ies) for obtaining new information;

(4) an initial identification of mitigation measures;

(5) the reasonable alternatives to be considered;

(6) an identification of the information/data that should be included in an appendix rather than the body of the draft EIS; and

(7) those prominent issues that were raised during scoping and determined to be not relevant or not environmentally significant or that have been adequately addressed in a prior environmental review.

(g) All relevant issues should be raised before the issuance of a final written scope. Any agency or person raising issues after that time must provide to the lead agency and project sponsor a written statement that identifies:

(1) the nature of the information;

(2) the importance and relevance of the information to a potential significant impact;

(3) the reason(s) why the information was not identified during scoping and why it should be included at this stage of the review.

(h) The project sponsor may incorporate information submitted consistent with subdivision 617.8(g) of this section into the draft EIS at its discretion. Any substantive information not incorporated into the draft EIS must be considered as public comment on the draft EIS.

(i) If the lead agency fails to provide a final written scope within 60 calendar days of its receipt of a draft scope, the project sponsor may prepare and submit a draft EIS consistent with the submitted draft scope. [\(Top of Page\)](#)

§617.9 PREPARATION AND CONTENT OF ENVIRONMENTAL IMPACT STATEMENTS.

(a) Environmental impact statement procedures.

(1) The project sponsor or the lead agency, at the project sponsor's option, will prepare the draft EIS. If the project sponsor does not exercise the option to prepare the draft EIS, the lead agency will prepare it, cause it to be prepared or terminate its review of the action. A fee may be charged by the lead agency for preparation or review of an EIS pursuant to section 617.13 of this Part. When the project sponsor prepares the draft EIS, the document must be submitted to the lead agency.

(2) The lead agency will use the final written scope, if any, and the standards contained in this section to determine whether to accept the draft EIS as adequate with respect to its scope and content for the purpose of commencing public review. This determination must be made in accordance with the standards in this section within 45 days of receipt of the draft EIS.

(i) If the draft EIS is determined to be inadequate, the lead agency must identify in writing the deficiencies and provide this information to the project sponsor.

(ii) The lead agency must determine whether to accept the resubmitted draft EIS within 30 days of its receipt.

(3) When the lead agency has completed a draft EIS or when it has determined that a draft EIS prepared by a project sponsor is adequate for public review, the lead agency must prepare, file and publish a notice of completion of the draft EIS and file copies of the draft EIS in accordance with the requirements set forth in section 617.12 of this Part. The minimum public comment period on the draft EIS is 30 days. The comment period begins with the first filing and circulation of the notice of completion.

(4) When the lead agency has completed a draft EIS or when it has determined that a draft EIS prepared by a project sponsor is adequate for public review, the lead agency will determine whether or not to conduct a public hearing concerning the action. In determining whether or not to hold a SEQR hearing, the lead agency will consider: the degree of interest in the action shown by the public or involved agencies; whether substantive or significant adverse environmental impacts have been identified; the adequacy of the mitigation measures and alternatives proposed; and the extent to which a public hearing can aid the agency decision-making processes by providing a forum for, or an efficient mechanism for the collection of, public comment. If a hearing is to be held:

(i) the lead agency must prepare and file a notice of hearing in accordance with subdivisions 617.12(a) and (b) of this Part. Such notice may be contained in the notice of completion of the draft EIS. The notice of hearing must be published, at least 14 calendar days in advance of the public hearing, in a newspaper of general circulation in the area of the potential impacts of the action. For state agency actions that apply statewide this requirement can be satisfied by publishing the hearing notice in the ENB and the State Register;

(ii) the hearing will commence no less than 15 calendar days or no more than 60 calendar days after the filing of the notice of completion of the draft EIS by the lead agency pursuant to subdivision 617.12(b) of this Part. When a SEQR hearing is to be held, it should be conducted with other public hearings on the proposed action, whenever practicable; and

(iii) comments will be received and considered by the lead agency for no less than 30 calendar days from the first filing and circulation of the notice of completion, or no less than 10 calendar days following a public hearing at which the environmental impacts of the proposed action are considered, whichever is later.

(5) Except as provided in subparagraph (i) of this paragraph, the lead agency must prepare or cause to be prepared and must file a final EIS, within 45 calendar days after the close of any hearing or within 60 calendar days after the filing of the draft EIS, whichever occurs later.

(i) No final EIS need be prepared if:

(a) the proposed action has been withdrawn or;

(b) on the basis of the draft EIS, and comments made thereon, the lead agency has determined that the action will not have a significant adverse impact on the environment. A negative declaration must then be prepared, filed and published in accordance section 617.12 of this Part.

(ii) The last date for preparation and filing of the final EIS may be extended:

(a) if it is determined that additional time is necessary to prepare the statement adequately; or

(b) if problems with the proposed action requiring material reconsideration or modification have been identified.

(6) When the lead agency has completed a final EIS, it must prepare, file and publish a notice of completion of the final EIS and file copies of the final EIS in accordance with section 617.12 of this Part.

(7) Supplemental EISs.

(i) The lead agency may require a supplemental EIS, limited to the specific significant adverse environmental impacts not addressed or inadequately addressed in the EIS that arise from:

(a) changes proposed for the project; or

(b) newly discovered information; or

(c) a change in circumstances related to the project.

(ii) The decision to require preparation of a supplemental EIS, in the case of newly discovered information, must be based upon the following criteria:

(a) the importance and relevance of the information; and

(b) the present state of the information in the EIS.

(iii) If a supplement is required, it will be subject to the full procedures of this Part.

(b) Environmental impact statement content.

(1) An EIS must assemble relevant and material facts upon which an agency's decision is to be made. It must analyze the significant adverse impacts and evaluate all reasonable alternatives. EISs must be analytical and not encyclopedic. The lead agency and other involved agencies must cooperate with project sponsors who are preparing EISs by making available to them information contained in their files relevant to the EIS.

(2) EISs must be clearly and concisely written in plain language that can be read and understood by the public. Within the framework presented in paragraph 617.9(b)(5) of this subdivision, EISs should address only those potential significant adverse environmental impacts that can be reasonably anticipated and/or have been identified in the scoping process. EISs should not contain more detail than is appropriate considering the nature and magnitude of the proposed action and the significance of its potential impacts. Highly technical material should be summarized and, if it must be included in its entirety, should be referenced in the statement and included in an appendix.

(3) All draft and final EISs must be preceded by a cover sheet stating:

(i) whether it is a draft or final EIS;

(ii) the name or descriptive title of the action;

(iii) the location (county and town, village or city) and street address, if applicable, of the action;

(iv) the name and address of the lead agency and the name and telephone number of a person at the agency who can provide further information;

(v) the names of individuals or organizations that prepared any portion of the statement;

(vi) the date of its acceptance by the lead agency; and

(vii) in the case of a draft EIS, the date by which comments must be submitted.

(4) A draft or final EIS must have a table of contents following the cover sheet and a precise summary which adequately and accurately summarizes the statement.

(5) The format of the draft EIS may be flexible; however, all draft EISs must include the following elements:

(i) a concise description of the proposed action, its purpose, public need and benefits, including social and economic considerations;

(ii) a concise description of the environmental setting of the areas to be affected, sufficient to understand the impacts of the proposed action and alternatives;

(iii) a statement and evaluation of the potential significant adverse environmental impacts at a level of detail that reflects the severity of the impacts and the reasonable likelihood of their occurrence. The draft EIS should identify and discuss the following only where applicable and significant:

(a) reasonably related short-term and long-term impacts, cumulative impacts and other associated environmental impacts;

(b) those adverse environmental impacts that cannot be avoided or adequately mitigated if the proposed action is implemented;

(c) any irreversible and irretrievable commitments of environmental resources that would be associated with the proposed action should it be implemented;

(d) any growth-inducing aspects of the proposed action;

(e) impacts of the proposed action on the use and conservation of energy (for an electric generating facility, the statement must include a demonstration that the facility will satisfy electric generating capacity needs or other electric systems needs in a manner reasonably consistent with the most recent state energy plan);

(f) impacts of the proposed action on solid waste management and its consistency with the state or locally adopted solid waste management plan;

(g) impacts of public acquisitions of land or interests in land or funding for non-farm development on lands used in agricultural production and unique and irreplaceable agricultural lands within agricultural districts pursuant to subdivision (4) of section 305 of article 25-AA of the Agriculture and Markets Law; and

(h) if the proposed action is in or involves resources in Nassau or Suffolk Counties, impacts of the proposed action on, and its consistency with, the comprehensive management plan for the special groundwater protection area program as implemented pursuant to article 55 or any plan subsequently ratified and adopted pursuant to article 57 of the Environmental Conservation Law for Nassau and Suffolk counties;

(iv) a description of the mitigation measures;

(v) a description and evaluation of the range of reasonable alternatives to the action that are feasible, considering the objectives and capabilities of the project sponsor. The description and evaluation of each alternative should be at a level of detail sufficient to permit a comparative assessment of the alternatives discussed. The range of alternatives must include the no action alternative. The no action alternative discussion should evaluate the adverse or beneficial site changes that are likely to occur in the reasonably foreseeable future, in the absence of the proposed action. The range of alternatives may also include, as appropriate, alternative:

(a) sites;

(b) technology;

(c) scale or magnitude;

(d) design;

(e) timing;

(f) use; and

(g) types of action. For private project sponsors, any alternative for which no discretionary approvals are needed may be described. Site alternatives may be limited to parcels owned by, or under option to, a private project sponsor;

(vi) for a state agency action in the coastal area the action's consistency: with the applicable coastal policies contained in 19 NYCRR 600.5; or when the action is in an approved local waterfront revitalization program area, with the local program policies;

(vii) for a state agency action within a heritage area or urban cultural park, the action's consistency with the approved heritage area management plan or the approved urban cultural park management plan;

(viii) a list of any underlying studies, reports, EISs and other information obtained and considered in preparing the statement including the final written scope.

(6) In addition to the analysis of significant adverse impacts required in subparagraph 617.9(b)(5)(iii) of this section, if information about reasonably foreseeable catastrophic impacts to the environment is unavailable because the cost to obtain it is exorbitant, or the means to obtain it are unknown, or there is uncertainty about its validity, and such information is essential to an agency's SEQR findings, the EIS must:

(i) identify the nature and relevance of unavailable or uncertain information;

(ii) provide a summary of existing credible scientific evidence, if available; and

(iii) assess the likelihood of occurrence, even if the probability of occurrence is low, and the consequences of the potential impact, using theoretical approaches or research methods generally accepted in the scientific community.

This analysis would likely occur in the review of such actions as an oil supertanker port, a liquid propane gas/liquid

natural gas facility, or the siting of a hazardous waste treatment facility. It does not apply in the review of such actions as shopping malls, residential subdivisions or office facilities.

(7) A draft or final EIS may incorporate by reference all or portions of other documents, including EISs that contain information relevant to the statement. The referenced documents must be made available for inspection by the public within the time period for public comment in the same places where the agency makes available copies of the EIS. When an EIS incorporates by reference, the referenced document must be briefly described, its applicable findings summarized, and the date of its preparation provided.

(8) A final EIS must consist of: the draft EIS, including any revisions or supplements to it; copies or a summary of the substantive comments received and their source (whether or not the comments were received in the context of a hearing); and the lead agency's responses to all substantive comments. The draft EIS may be directly incorporated into the final EIS or may be incorporated by reference. The lead agency is responsible for the adequacy and accuracy of the final EIS, regardless of who prepares it. All revisions and supplements to the draft EIS must be specifically indicated and identified as such in the final EIS. ([Top of Page](#))

§617.10 GENERIC ENVIRONMENTAL IMPACT STATEMENTS.

(a) Generic EISs may be broader, and more general than site or project specific EISs and should discuss the logic and rationale for the choices advanced. They may also include an assessment of specific impacts if such details are available. They may be based on conceptual information in some cases. They may identify the important elements of the natural resource base as well as the existing and projected cultural features, patterns and character. They may discuss in general terms the constraints and consequences of any narrowing of future options. They may present and analyze in general terms a few hypothetical scenarios that could and are likely to occur.

A generic EIS may be used to assess the environmental impacts of:

- (1) a number of separate actions in a given geographic area which, if considered singly, may have minor impacts, but if considered together may have significant impacts; or
- (2) a sequence of actions, contemplated by a single agency or individual; or
- (3) separate actions having generic or common impacts; or
- (4) an entire program or plan having wide application or restricting the range of future alternative policies or projects, including new or significant changes to existing land use plans, development plans, zoning regulations or agency comprehensive resource management plans.

(b) In particular agencies may prepare generic EISs on the adoption of a comprehensive plan prepared in accordance with subdivision 4, section 28-a of the General City Law; subdivision 4, section 272-a of the Town Law; or subdivision 4, section 7- 722 of the Village Law and the implementing regulations. Impacts of individual actions proposed to be carried out in conformance with these adopted plans and regulations and the thresholds or conditions identified in the generic EIS may require no or limited SEQR review as described in subdivisions (c) and (d) of this section.

(c) Generic EISs and their findings should set forth specific conditions or criteria under which future actions will be undertaken or approved, including requirements for any subsequent SEQR compliance. This may include thresholds and criteria for supplemental EISs to reflect specific significant impacts, such as site specific impacts, that were not adequately addressed or analyzed in the generic EIS.

(d) When a final generic EIS has been filed under this part:

(1) No further SEQR compliance is required if a subsequent proposed action will be carried out in conformance with the conditions and thresholds established for such actions in the generic EIS or its findings statement;

(2) An amended findings statement must be prepared if the subsequent proposed action was adequately addressed in the generic EIS but was not addressed or was not adequately addressed in the findings statement for the generic EIS;

(3) A negative declaration must be prepared if a subsequent proposed action was not addressed or was not adequately addressed in the generic EIS and the subsequent action will not result in any significant environmental impacts;

(4) A supplement to the final generic EIS must be prepared if the subsequent proposed action was not addressed or was not adequately addressed in the generic EIS and the subsequent action may have one or more significant adverse environmental impacts.

(e) In connection with projects that are to be developed in phases or stages, agencies should address not only the site specific impacts of the individual project under consideration, but also, in more general or conceptual terms, the cumulative impacts on the environment and the existing natural resource base of subsequent phases of a larger project or series of projects that may be developed in the future. In these cases, this part of the generic EIS must discuss the important elements and constraints present in the natural and cultural environment that may bear on the conditions of an agency decision on the immediate project. [\(Top of Page\)](#)

§617.11 DECISION-MAKING AND FINDINGS REQUIREMENTS.

(a) Prior to the lead agency's decision on an action that has been the subject of a final EIS, it shall afford agencies and the public a reasonable time period (not less than 10 calendar days) in which to consider the final EIS before issuing its written findings statement. If a project modification or change of circumstance related to the project requires a lead or involved agency to substantively modify its decision, findings may be amended and filed in accordance with subdivision 617.12(b) of this Part.

(b) In the case of an action involving an applicant, the lead agency's filing of a written findings statement and decision on whether or not to fund or approve an action must be made within 30 calendar days after the filing of the final EIS.

(c) No involved agency may make a final decision to undertake, fund, approve or disapprove an action that has been the subject of a final EIS, until the time period provided in subdivision 617.11(a) of this section has passed and the agency has made a written findings statement. Findings and a decision may be made simultaneously.

(d) Findings must:

(1) consider the relevant environmental impacts, facts and conclusions disclosed in the final EIS;

(2) weigh and balance relevant environmental impacts with social, economic and other considerations;

(3) provide a rationale for the agency's decision;

(4) certify that the requirements of this Part have been met;

(5) certify that consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative

measures that were identified as practicable.

(e) No state agency may make a final decision on an action that has been the subject of a final EIS and is located in the coastal area until the agency has made a written finding that the action is consistent with applicable policies set forth in 19 NYCRR 600.5. When the Secretary of State has approved a local government waterfront revitalization program, no state agency may make a final decision on an action, that is likely to affect the achievement of the policies and purposes of such program, until the agency has made a written finding that the action is consistent to the maximum extent practicable with that local waterfront revitalization program. ([Top of Page](#))

§617.12 DOCUMENT PREPARATION, FILING, PUBLICATION AND DISTRIBUTION.

The following SEQR documents must be prepared, filed, published and made available as prescribed in this section.

(a) Preparation of documents.

(1) Each negative declaration, positive declaration, notice of completion of an EIS, notice of hearing and findings must state that it has been prepared in accordance with article 8 of the Environmental Conservation Law and must contain: the name and address of the lead agency; the name, address and telephone number of a person who can provide additional information; a brief description of the action; the SEQR classification; and, the location of the action.

(2) In addition to the information contained in paragraph (a)(1) of this subdivision:

(i) A negative declaration must meet the requirements of subdivision 617.7(b) of this Part. A conditioned negative declaration must also identify the specific conditions being imposed that have eliminated or adequately mitigated all significant adverse environmental impacts and the period, not less than 30 calendar days, during which comments will be accepted by the lead agency.

(ii) A positive declaration must identify the potential significant adverse environmental impacts that require the preparation of an EIS and state whether scoping will be conducted.

(iii) A notice of completion must identify the type of EIS (draft, final, supplemental, generic) and state where copies of the document can be obtained. For a draft EIS the notice must include the period (not less than 30 calendar days from the date of filing or not less than 10 calendar days following a public hearing on the draft EIS) during which comments will be accepted by the lead agency.

(iv) A notice of hearing must include the time, date, place and purpose of the hearing and contain a summary of the information contained in the notice of completion. The notice of hearing may be combined with the notice of completion of the draft EIS.

(v) Findings must contain the information required by subdivisions 617.11(d) and (e) of this Part.

(b) Filing and distribution of documents.

(1) A Type I negative declaration, conditioned negative declaration, positive declaration, notice of completion of an EIS, EIS, notice of hearing and findings must be filed with:

(i) the chief executive officer of the political subdivision in which the action will be principally located;

- (ii) the lead agency;
- (iii) all involved agencies (see also paragraph 617.6(b)(3)) of this Part;
- (iv) any person who has requested a copy; and
- (v) if the action involves an applicant, with the applicant.

(2) A negative declaration prepared on an Unlisted action must be filed with the lead agency.

(3) All SEQR documents and notices, including but not limited to, EAFs, negative declarations, positive declarations, scopes, notices of completion of an EIS, EISs, notices of hearing and findings must be maintained in files that are readily accessible to the public and made available on request.

(4) The lead agency may charge a fee to persons requesting documents to recover its copying costs.

(5) If sufficient copies of the EIS are not available to meet public interest, the lead agency must provide an additional copy of the documents to the local public library.

(6) A copy of the EIS must be sent to the Department of Environmental Conservation, Division of Environmental Permits, 625 Broadway, Albany, NY 12233-1750.

(7) For state agency actions in the coastal area a copy of the EIS must be provided to the Secretary of State.

(c) Publication of notices.

(1) Notice of a Type I negative declaration, conditioned negative declaration, positive declaration and completion of an EIS must be published in the Environmental Notice Bulletin (ENB) in a manner prescribed by the department. Notice must be provided by the lead agency directly to Environmental Notice Bulletin, Room 538, 625 Broadway, Albany, NY 12233-1750 for publication in the ENB. The ENB is accessible on the department's internet web site at <http://www.dec.state.ny.us> .

(2) A notice of hearing must be published, at least 14 days in advance of the hearing date, in a newspaper of general circulation in the area of the potential impacts of the action. For state agency actions that apply statewide this requirement can be satisfied by publishing the hearing notice in the ENB and the State Register.

(3) Agencies may provide for additional public notice by posting on sign boards or by other appropriate means.

(4) Notice of a negative declaration must be incorporated once into any other subsequent notice required by law. This requirement can be satisfied by indicating the SEQR classification of the action and the agency's determination of significance. ([Top of Page](#))

§617.13 FEES AND COSTS.

(a) When an action subject to this Part involves an applicant, the lead agency may charge a fee to the applicant in order to recover the actual costs of either preparing or reviewing the draft and/or final EIS. The fee may include a chargeback to recover a proportion of the lead agency's actual costs expended for the preparation of a generic EIS prepared pursuant to section 617.10 of this Part for the geographic area where the applicant's project is located. The chargeback may be based on the percentage of the remaining developable land or the percentage of road frontage to be used by the project, or any other reasonable methods. The fee must not exceed the amounts allowed under subdivisions (b) through

(d) of this section. If the lead agency charges for preparation of a draft and/or final EIS, it may not also charge for review; if it charges for review of a draft and/or final EIS, it may not also charge for preparation. Scoping will be considered part of the draft EIS for purposes of determining a SEQR fee; no fee may be charged for preparation of an EAF or determination of significance.

(b) For residential projects, the total project value will be calculated on the actual purchase price of the land or the fair market value of the land (determined by assessed valuation divided by equalization rate) whichever is higher, plus the cost of all required site improvements, not including the cost of buildings and structures, as determined with reference to a current cost data publication in common use. In the case of such projects, the fee charged by an agency may not exceed two percent of the total project value.

(c) For nonresidential construction projects, the total project value will be calculated on the actual purchase price of the land or the fair market value of the land (determined by the assessed valuation divided by equalization rate) whichever is higher, plus the cost of supplying utility service to the project, the cost of site preparation and the cost of labor and material as determined with reference to a current cost data publication in common use. In the case of such projects the fee charged may not exceed one half of one percent of the total project value.

(d) For projects involving the extraction of minerals, the total project value will be calculated on the cost of site preparation for mining. Site preparation cost means the cost of clearing and grubbing and removal of over-burden for the entire area to be mined plus the cost of utility services and construction of access roads. Such costs are determined with reference to a current cost data publication in common use. The fee charged by the agency may not exceed one half of one percent of the total project value. For those costs to be incurred for phases occurring three or more years after issuance of a permit, the total project value will be determined using a present value calculation.

(e) Where an applicant chooses not to prepare a draft EIS, the lead agency will provide the applicant, upon request, with an estimate of the costs for preparing the draft EIS calculated on the total value of the project for which funding or approval is sought.

(f) "Appeals procedure". When a dispute arises concerning fees charged to an applicant by a lead agency, the applicant may make a written request to the agency setting forth reasons why it is felt that such fees are inequitable. Upon receipt of a request the chief fiscal officer of the agency or his designee will examine the agency record and prepare a written response to the applicant setting forth reasons why the applicant's claims are valid or invalid. Such appeal procedure must not interfere with or cause delay in the EIS process or prohibit an action from being undertaken.

(g) The technical services of the department may be made available to other agencies on a fee basis, reflecting the costs thereof, and the fee charged to any applicant pursuant to this section may reflect such costs. [\(Top of Page\)](#)

§617.14 INDIVIDUAL AGENCY PROCEDURES TO IMPLEMENT SEQR.

(a) Article 8 of the Environmental Conservation Law requires all agencies to adopt and publish, after public hearing, any additional procedures that may be necessary for them to implement SEQR. Until an agency adopts these additional procedures, its implementation of SEQR will be governed by the provisions of this Part. If an agency rescinds its additional SEQR procedures, it will continue to be governed by this Part. The agency must promptly notify the commissioner, and the commissioner shall publish a notice in the ENB, of the adoption of additional procedures or the rescission of agency SEQR procedures.

(b) To the greatest extent possible, the procedures prescribed in this Part must be incorporated into existing agency procedures. An agency may by local law, code, ordinance, executive order, resolution or regulation vary the time periods established in this Part for the preparation and review of SEQR documents, and for the conduct of public hearings, in order to coordinate the SEQR environmental review process with other procedures relating to the review and approval of actions. Such time changes must not impose unreasonable delay. Individual agency procedures to implement SEQR must be no less protective of environmental values, public participation and agency and judicial review than the procedures contained in this Part. This Part supersedes any SEQR provisions promulgated or enacted

by an agency that are less protective of the environment.

(c) Agencies may find it helpful to seek the advice and assistance of other agencies, groups and persons on SEQR matters, including the following:

- (1) advice on preparation and review of EAF's;
- (2) recommendations on the significance or non-significance of actions;
- (3) preparation and review of EISs and recommendations on the scope, adequacy, and contents of EISs;
- (4) preparation and filing of SEQR notices and documents;
- (5) conduct of public hearings; and
- (6) recommendations to decisionmakers.

(d) Agencies are strongly encouraged to enter into cooperative agreements with other agencies regularly involved in carrying out or approving the same actions for the purposes of coordinating their procedures.

(e) All agencies are subject to the lists of Type I and Type II actions contained in this Part, and must apply the criteria provided in subdivision 617.7(c) of this Part. In addition, agencies may adopt their own lists of Type I actions, in accordance with section 617.4 of this Part and their own lists of Type II actions in accordance with section 617.5 of this Part.

(f) Every agency that adopts, has adopted or amends SEQR procedures must, after public hearing, file them with the commissioner, who will maintain them to serve as a resource for agencies and interested persons. The commissioner will provide notice in the ENB of such procedures upon filing. All agencies that have promulgated their own SEQR procedures must review and bring them into conformance with this Part. Until agencies do so, their procedures, where inconsistent or less protective, are superseded by this Part.

(g) A local agency may designate a specific geographic area within its boundaries as a critical environmental area (CEA). A state agency may also designate as a CEA a specific geographic area that is owned or managed by the state or is under its regulatory authority. Designation of a CEA must be preceded by written public notice and a public hearing. The public notice must identify the boundaries and the specific environmental characteristics of the area warranting CEA designation.

(1) To be designated as a CEA, an area must have an exceptional or unique character covering one or more of the following:

- (i) a benefit or threat to human health;
- (ii) a natural setting (e.g., fish and wildlife habitat, forest and vegetation, open space and areas of important aesthetic or scenic quality);
- (iii) agricultural, social, cultural, historic, archaeological, recreational, or educational values;
or
- (iv) an inherent ecological, geological or hydrological sensitivity to change that may be adversely affected by any change.

(2) Notification that an area has been designated as a CEA must include a map at an appropriate scale to

readily locate the boundaries of the CEA, the written justification supporting the designation, and proof of public hearing and, must be filed with:

- (i) the commissioner;
- (ii) the appropriate regional office of the department; and
- (iii) any other agency regularly involved in undertaking, funding or approving actions in the municipality in which the area has been designated.

(3) This designation shall take effect 30 days after filing with the commissioner. Each designation of a CEA must be published in the ENB by the department and the department will serve as a clearinghouse for information on CEAs.

(4) Following designation, the potential impact of any Type I or Unlisted Action on the environmental characteristics of the CEA is a relevant area of environmental concern and must be evaluated in the determination of significance prepared pursuant to Section 617.7 of this Part. ([Top of Page](#))

§617.15 ACTIONS INVOLVING A FEDERAL AGENCY .

(a) When a draft and final EIS for an action has been duly prepared under the National Environmental Policy Act of 1969, an agency has no obligation to prepare an additional EIS under this Part, provided that the federal EIS is sufficient to make findings under section 617.11 of this Part. However, except in the case of Type II actions listed in section 617.5 of this Part, no involved agency may undertake, fund or approve the action until the federal final EIS has been completed and the involved agency has made the findings prescribed in section 617.11 of this Part.

(b) Where a finding of no significant impact (FNSI) or other written threshold determination that the action will not require a federal impact statement has been prepared under the National Environmental Policy Act of 1969, the determination will not automatically constitute compliance with SEQR. In such cases, state and local agencies remain responsible for compliance with SEQR.

(c) In the case of an action involving a federal agency for which either a federal FNSI or a federal draft and final EIS has been prepared, except where otherwise required by law, a final decision by a federal agency will not be controlling on any state or local agency decision on the action, but may be considered by the agency. ([Top of Page](#))

§617.16 CONFIDENTIALITY

When a project sponsor submits a completed EAF, draft or final EIS, or otherwise provides information concerning the environmental impacts of a proposed project, the project sponsor may request, consistent with the Freedom of Information Law (FOIL), article 6 of the Public Officers Law, that specifically identified information be held confidential. Prior to divulging any such information, the agency must notify the applicant of its determination of whether or not it will hold the information confidential. ([Top of Page](#))

§617.17 REFERENCED MATERIAL.

The following referenced documents have been filed with the New York State Department of State. The documents are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 and for inspection and copying at the Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-1750.

- (a) National Register of Historic Places, (1994), 36 Code of Federal Regulation (CFR) Parts 60 and 63.

(b) Register Of National Natural Landmarks,(1994), 36 Code of Federal Regulation (CFR) Part 62.

[\(Top of Page\)](#)

§617.18 SEVERABILITY

If any provision of this Part or its application to any person or circumstance is determined to be contrary to law by a court of competent jurisdiction, such determination shall not affect or impair the validity of the other provisions of this Part or the application to other persons and circumstances. [\(Top of Page\)](#)

§617.19 EFFECTIVE DATE.

This Part, as revised, applies to actions for which a determination of significance has not been made prior to January 1, 1996. Actions for which a determination of significance has been made prior to January 1, 1996 must comply with Part 617 effective June 1, 1987. [\(Top of Page\)](#)

§617.20 APPENDICES

Appendices A, B and C are model environmental assessment forms which may be used to satisfy this Part or may be modified in accordance with sections 617.2 and 617.14 of this Part. [\(Top of Page\)](#)

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PROCEDURES AND DOCUMENTATION APPENDIX 2

Rules of Procedure for City Environmental Quality Review (CEQR)

**2001 Technical Manual
Out of Date - DO NOT USE**

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Chapter 5: Rules of Procedure for City Environmental Quality Review (CEQR)

as adopted June 26, 1991

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§5-01.

Source of authority and statement of purpose.

Section 192(e) of the Charter provides that the City Planning Commission "shall oversee implementation of laws that require environmental reviews of actions taken by the city" and that the Commission "shall establish by rule procedures for environmental reviews of proposed actions by the city where such reviews are required by law." These rules are intended to exercise that mandate by redefining lead agencies within the city in accordance with law, prescribing the relationship of the new Office of Environmental Coordination with those agencies and regulating scoping. The organization and numbering of the various sections of these rules are not intended to correspond precisely to Executive Order 91. [43RCNY Chapter 6, also see Appendix A hereto] Rather, these rules are an overlay on Executive Order 91. Where these rules conflict with Executive Order 91, these rules supersede the Executive Order.

In deciding upon the appropriate lead agency for certain classes of actions taken by the city, the City Planning Commission has selected the involved agency "principally responsible for carrying out, funding or approving" those actions. 6 NYCRR §617.2(v). For private ULURP applications, for section 197-a plans and for all actions primarily involving a zoning map or text change, the City Planning Commission, responsible under the Charter "for the conduct of planning relating to the orderly growth, improvement and future development of the city" (Charter section 192(d)), is the lead agency. For other ULURP applications, the city agency applicant, the agency that will generally be involved with ensuring programmatic implementation of the action, is the lead agency. Most of the remaining lead agency designations in the rules similarly address other approvals required by the Charter by designating the agency charged with ensuring programmatic implementation as the lead agency for those approvals. In appropriate cases, a lead agency designated by the rules may transfer its lead agency status to another involved agency.

The rules ensure that lead agencies have access to the technical and administrative expertise of the Office of Environmental Coordination. Finally, the rules provide for involved and interested agencies, including the City Council, to participate in the environmental review process, and ensure a role for the public in scoping.

§5-02.

General provisions.

- (a) CONTINUATION OF EXECUTIVE ORDER NO. 91. [43RCNY §6-01 et seq., Appendix A]

Until the City Planning Commission promulgates further rules governing environmental review of actions taken by the city, Executive Order No. 91 of August 24, 1977, as amended (Executive Order 91), shall continue to govern environmental quality review in the city except where inconsistent with these rules, provided, however, that the following provisions of Executive Order 91 shall not apply: the definitions of "Agency", "Lead Agencies" and "Project Data Statement" defined in §6-02, subdivision (b) of §6-03, subdivision (a) of §6-05, the introductory paragraph of subdivision (b) of §6-05, paragraphs one and two of subdivision (a) of §6-12, §6-14, and subdivision (b) of the TYPE II part of §6-15.

(b) RULES OF CONSTRUCTION.

- (1) All functions required by Executive Order 91 to be performed by the "lead agencies," as formerly defined in §6-02 of such Executive Order, shall be performed by the lead agency prescribed by or selected pursuant to these rules or by the Office of Environmental Coordination where authorized by these rules.
- (2) Wherever Executive Order 91 explicitly or by implication refers to subdivision (b) of the Type II part of §6-15 of such Executive Order, such reference shall be deemed to be to section 617.13(d) of the SEQRA Regulations.
- (3) The reference to "a determination pursuant to §6-03(b) of this Executive Order" contained in Executive Order 91 §6-05(b)(1) shall be deemed to refer to selection of a lead agency pursuant to §5-03 of these rules.
- (4) The Office of Environmental Coordination shall succeed to functions performed by the City Clerk pursuant to Executive Order 91 with respect to the receipt and filing of documents.
- (5) References in these rules and in Executive Order 91 to specific agencies and provisions of law shall be deemed to apply to successor agencies and provisions of law.

(c) DEFINITIONS.

- (1) All definitions contained in Executive Order 91, other than the definitions of "agency" and "lead agencies", shall apply to these rules.
- (2) "Action" as defined in §6-02 of Executive Order 91 includes all contemporaneous or subsequent actions that are included in a review pursuant to City Environmental Quality Review.
- (3) The following additional definitions shall apply to these rules unless otherwise noted:

Agency. "Agency" shall mean any agency, administration, department, board, commission, council, governing body or other governmental entity of the city of New York, including but not limited

to community boards, borough boards and the offices of the borough presidents, unless otherwise specifically referred to as a state or federal agency.

City Environmental Quality Review. "City Environmental Quality Review" (CEQR) shall mean the environmental quality review procedure established by Executive Order 91 as modified by these rules.

Determination of significance. "Determination of significance" shall mean a negative declaration, conditional negative declaration or notice of determination (positive declaration).

Interested agency. "Interested agency" shall mean an agency that lacks jurisdiction to fund, approve or directly undertake an action but requests or is requested to participate in the review process because of its specific concern or expertise about the proposed action.

Involved agency. "Involved agency" shall mean any agency that has jurisdiction to fund, approve or directly undertake an action pursuant to any provision of law, including but not limited to the Charter or any local law or resolution. The City Council shall be an involved agency for all actions for which, as a component of the approval procedure for the action or a part thereof, the City Council has the power to approve or disapprove, regardless of whether the City Council chooses to exercise such power.

Lead agency. "Lead agency" shall mean the agency principally responsible for environmental review pursuant to these rules.

Scoping. "Scoping" shall mean the process by which the lead agency identifies the significant issues related to the proposed action which are to be addressed in the draft environmental impact statement including, where possible, the content and level of detail of the analysis, the range of alternatives, the mitigation measures needed to minimize or eliminate adverse impacts, and the identification of non-relevant issues.

SEQRA Regulations. "SEQRA Regulations" shall mean Part 617 of Volume 6 of New York Codes, Rules and Regulations.

(d) **APPLICABILITY.**

These rules and Executive Order 91 shall apply to environmental review by the city that is required by the State Environmental Quality Review Act (Environmental Conservation Law, Article 8) and regulations of the State Department of Environmental Conservation thereunder and shall not be construed to require environmental quality review of an action where such review would not otherwise be required by such act and regulations, or to dispense with any such review where it is otherwise required.

§5-03.

Establishment of lead agency.

(a) **GENERAL RULE.**

Where only one agency is involved in an action, that agency shall be the lead agency.

(b) **ACTIONS SUBJECT TO ULURP AND CHARTER SECTIONS 197-a, 200, 201, and 668.**

- (1) For actions subject to the Uniform Land Use Review Procedure of section 197-c of the Charter (ULURP), and for which the applicant is not a city agency, the City Planning Commission shall be the lead agency.
- (2) For actions that involve plans for the development, growth and improvement of the city, its boroughs and community districts (Charter section 197-a), the City Planning Commission shall be the lead agency.
- (3) For actions that involve zoning map or text changes (Charter section 200 and/or 201), the following rules shall apply:
 - (i) If the only approval subject to ULURP or to Charter section 200 or 201 is a zoning map or text change, the City Planning Commission shall be the lead agency.
 - (ii) If the applicant for any action requiring a zoning map or text change is not a city agency, the City Planning Commission shall be the lead agency.
 - (iii) If the action involves a zoning map or text change, in addition to another approval under Charter section 197-c (ULURP) for which there is a city agency applicant, then the city agency applicant shall be the lead agency, provided, however, that the City Planning Commission shall be the lead agency if:
 - (A) the action involves a zoning map or text change that covers or may apply to areas substantially larger than the properties covered by the non-zoning approvals required under Charter section 197-c; or
 - (B) the city agency applicant and the Chair of the City Planning Commission agree that the action involves a zoning map or text change that changes the uses permitted so as to substantially alter the area zoning pattern.
- (4) For all other actions subject to section 197-c of the Charter (ULURP) for which the applicant is a city agency, and for actions subject to section 668 of the Charter for which the applicant is a city agency, the city agency applicant shall be the lead agency. Where there is more than one city agency applicant, the city agency applicants shall agree upon which of them will be the lead

agency, using the selection procedure set forth in subdivision (h) of this section.

- (5) Where no other provision of this section applies and an action involves a special permit or variance from the Board of Standards and Appeals (Charter section 668) for which the applicant is not a city agency, the Board of Standards and Appeals shall be the lead agency.

(c) **SECTION 195 ACQUISITIONS OF OFFICE SPACE OR EXISTING BUILDINGS FOR OFFICE USE.**

For actions involving acquisitions of office space or existing buildings for office use (Charter section 195), the agency filing the notice of intent to acquire shall be the lead agency.

(d) **LOCAL LAWS.**

The City Council and the Office of the Mayor shall be co-lead agencies for local laws. Either agency may at any time delegate to the other its lead agency status and act instead as an involved agency. In addition, after introduction of a proposed local law, the City Council may assume sole lead agency status after giving the Mayor five days notice.

(e) **FRANCHISES, REVOCABLE CONSENTS, AND CONCESSIONS.**

For actions involving franchises, revocable consents and concessions, the responsible agency as defined in Charter section 362(c) shall be the lead agency.

(f) **LEASING OF WHARF PROPERTY FOR WATERFRONT COMMERCE OR NAVIGATION AND WATERFRONT PLANS.**

For actions involving the leasing of wharf property belonging to the city primarily for purposes of waterfront commerce or in furtherance of navigation (Charter section 1301(2)(f)), the Department of Business Services shall be the lead agency, provided that the Department of Transportation shall be the lead agency for such actions when it is acting pursuant to Charter section 2903(c)(2). For actions involving determinations of the Commissioner of Business Services pursuant to Charter section 1302 (waterfront plans), the Department of Business Services shall be the lead agency.

(g) **SELECTION OF LEAD AGENCY IN THE CASE OF MULTIPLE INVOLVED AGENCIES.**

- (1) Subdivision (b) of this section, which governs lead agency designation for actions involving approvals pursuant to ULURP or section 197-a, 200, 201 or 668 of the Charter, shall always govern determination of the lead agency regardless of whether the action involves additional approvals pursuant to other provisions of law.

- (2) For any other action involving more than one agency, the agencies designated in subdivisions (c) through (f) of this section and any agencies involved in any required city approval, other than approvals described in such subdivisions, shall agree upon which of them will be the lead agency, using the selection procedure set forth in subdivision (h) of this section.

(h) **PROCEDURE FOR SELECTION OF LEAD AGENCY.**

In selecting a lead agency where agreement among agencies is required by this section, and in deciding whether transfer of lead agency status is appropriate, the agencies making the selection or decision shall determine which agency is most appropriate to act as lead agency for the particular action. In making such determination, such agencies shall consider, but shall not be limited to considering, the following criteria:

- (i) the agency that will have the greater degree of responsibility for planning and implementing the action;
 - (ii) the agency that will be involved for a longer duration;
 - (iii) the agency that has the greater capability for providing the most thorough environmental assessment;
 - (iv) the agency that has the more general governmental powers as compared to single or limited powers or purposes;
 - (v) the agency that will provide the greater level of funding for the action;
 - (vi) the agency that will act earlier on the proposed action; and
 - (vii) the agency that has the greater role in determining the policies resulting in or affecting the proposed action.
- (i) **TRANSFER OF LEAD AGENCY STATUS.**

Lead agency status may be transferred from the lead agency, at its discretion, to an involved agency that agrees to become the lead agency. In deciding whether a transfer of lead agency status is appropriate, agencies shall use the selection

procedure set forth in subdivision (h) of this section. Notice of transfer of lead agency status must be given by the new lead agency to the applicant and all other involved and interested agencies within 10 days of the transfer. The Chair of the City Planning Commission may act on behalf of such Commission pursuant to this subdivision.

(j) **SELECTION OF LEAD AGENCY WHERE ACTIONS INVOLVE CITY AND STATE AGENCIES.**

Where an action involves both city and state agencies, the city agency prescribed by or selected pursuant to subdivisions (a) through (i) of this section shall, together with such state agencies, participate in selection of the lead agency pursuant to SEQRA, and such selection shall be binding upon the city. The criteria set forth in section 617.6(e)(5) of the SEQRA Regulations shall be considered in deciding whether or not a city agency shall serve as lead agency. The Office of Environmental Coordination shall perform the functions set forth in subdivision (d) of §5-04 of these rules.

§5-04.

The Office of Environmental Coordination.

- (a) The Director of City Planning and the Commissioner of the Department of Environmental Protection shall designate persons from the staffs of the Departments of City Planning and Environmental Protection who shall comprise the Office of Environmental Coordination (OEC). The OEC shall provide assistance to all city agencies in fulfilling their environmental review responsibilities.
- (b) The OEC shall perform any environmental review function assigned to it by a lead agency, except the OEC may not issue, amend or rescind a determination of significance, notice of completion of a draft or final environmental impact statement, written findings following issuance of a final environmental impact statement, or analogous statements, notices or findings for a supplemental environmental impact statement. In addition, the lead agency may not delegate to the OEC its responsibility to issue the final scope or to attend the scoping meeting; however, the lead agency may delegate to the OEC the power to chair the scoping meeting.
- (c) In addition to any other functions the OEC may perform pursuant to these rules, the OEC shall:

- (1) work with appropriate city agencies to develop and maintain technical standards and methodologies for environmental review and, upon request, assist in the application by agencies of such standards and methodologies;
- (2) work with appropriate city agencies to develop and maintain a technical database that may be utilized by applicants and city agencies in completing the standardized environmental assessment statement described in this subdivision and in preparation of draft and final environmental impact statements;
- (3) prepare and maintain a standardized environmental assessment statement, which shall provide guidance in determining whether the action may have a significant effect on the environment;
- (4) at the request of a lead agency, coordinate the work of the technical staffs of interested agencies in order to complete environmental review, and expedite responses by interested agencies to requests of the lead agency;
- (5) (i) receive and maintain on file notifications of commencement of environmental review, determinations of significance (including completed environmental assessment statements), draft and final scopes issued pursuant to §5-07 of these rules, draft and final environmental impact statements, and significant supporting documentation comprising the official records of environmental reviews, (ii) provide to the public upon request, or make available for inspection by the public during normal business hours, materials maintained on file pursuant to this paragraph, (iii) publish a quarterly listing of all notifications of commencement, determinations of significance, draft and final scopes and draft and final environmental impact statements received and filed pursuant to this paragraph, and (iv) in its discretion, advise lead agencies as to whether such documents are consistent with standards and methodologies developed pursuant to this subdivision and reflect proper use of the standardized environmental assessment statement;
- (6) provide to lead agencies staff training, management assistance, model procedures, coordination with other agencies, and other strategies intended to remedy any problems that arise with respect to consistency with standards and methodologies developed pursuant to this subdivision or proper use of the standardized environmental assessment statement;
- (7) provide to lead agencies a format for notices of public scoping meetings, assist lead agencies in ensuring that public scoping meetings are conducted in an effective manner, and, to the extent the OEC deems appropriate, comment on the draft scope and participate in such meetings;

- (8) prepare standardized forms for notifications of commencement of environmental review, determinations of significance, notices of completion of draft and final environmental impact statements, and, as may be appropriate, other environmental review documents; and
- (9) work with appropriate city agencies to develop and implement a tracking system to ensure that mitigation measures are implemented in a timely manner, and to evaluate and report on the effectiveness of mitigation measures.
- (d) Any state agency that seeks a determination whether a city agency shall serve as the lead agency for an action that involves city and state agencies should initially communicate with the OEC. Upon receipt of such communication, the OEC shall ascertain the city agency which is designated as lead agency by or pursuant to these rules and shall notify such agency of such communication. Such designated agency may then act pursuant to subdivision (j) of §5-03 of these rules.
- (e) Where an action or part thereof has been or will be reviewed by a federal agency, the OEC shall assist city agencies in coordinating review with the appropriate federal agency.

§5-05.

Environmental review procedures.

(a) THRESHOLD DETERMINATION.

- (1) In the case of any action for which a lead agency is prescribed by §5-03 of these rules, and thus for which no agreement among involved agencies is necessary, only such lead agency may determine that such action, considered in its entirety, requires environmental review, and such determination shall be binding upon the city. The OEC shall, upon the request of such agency, assist in such determination.
- (2) In the case of any action for which agreement among involved agencies is necessary for selection of a lead agency, if an agency that could be the lead agency for the particular action pursuant to subdivisions (b) through (g) of §5-03 of these rules determines that such action may require environmental review, then the lead agency shall be agreed upon as provided in §5-03 of these rules, and such lead agency shall determine whether such action, considered in its entirety, requires environmental review. Such determination shall be binding upon the city. The OEC shall assist in any determination made pursuant to this paragraph upon the request of the agency making such determination.

- (3) Nothing contained in this subdivision shall be construed to require an affirmative determination, whether formal or informal, that an action is exempt from environmental review, or is a Type II action pursuant to the SEQRA Regulations, where such determination would not otherwise be required by law.

(b) OTHER DETERMINATIONS.

- (1) After the determination that an action requires environmental review, the lead agency shall notify the OEC that it is commencing environmental review and complete or cause to be completed the standardized environmental assessment statement provided by the OEC. Such statement shall provide guidance in determining whether the action may have a significant effect on the environment. The OEC and interested and involved agencies shall, upon the request of the lead agency, assist the lead agency in completing such statement.
- (2) The OEC and interested and involved agencies shall, upon the request of the lead agency, assist such lead agency with respect to any aspect of a determination of significance and/or a draft, final and/or supplemental environmental impact statement.
- (3) Whenever, in the preparation of a draft environmental impact statement, the lead agency identifies a potential significant impact, the lead agency shall consult with any agency that has primary jurisdiction to carry out possible mitigations, and with any city agency that has primary regulatory jurisdiction over the subject matter of such impact.
- (4) Lead agencies shall send copies of the following to the OEC upon issuance: notifications of commencement of environmental review, determinations of significance (including completed environmental assessment statements), draft and final scopes, draft and final environmental impact statements. In addition, lead agencies shall forward to the OEC significant supporting documentation comprising the official records of environmental reviews.

§5-06.

Involved and interested agencies; required circulation.

- (a) The lead agency and the OEC shall make every reasonable effort to keep involved and interested agencies informed during the environmental review process and to facilitate their participation in such process. If the City Council is involved in an action, staff of the lead agency and/or staff of the OEC shall be made available to explain determinations made by the lead agency to the City Council or the appropriate City Council committee or staff.

(b) Any written information submitted by an applicant for purposes of a determination by the lead agency whether an environmental impact statement will be required by law, and documents or records intended to define or substantially redefine the overall scope of issues to be addressed in any draft environmental impact statement required by law, shall be circulated to all affected community or borough boards, where such circulation is required by the Charter.

(c) If the City Council is involved in an action, any written information, documents or records that are required to be circulated to involved agencies or to affected community boards or borough boards shall be circulated to the City Council.

§5-07.

Scoping.

Following the issuance of a notice of determination (positive declaration), the lead agency shall coordinate the scoping process, which shall ensure that all interested and involved agencies (including the City Council where it is interested or involved), the applicant, the OEC, community and borough boards, borough presidents and the public are able to participate. The scoping process shall include a public scoping meeting and take place in accordance with the following procedure:

(a) DRAFT SCOPE.

Within fifteen days after issuance of a notice of determination (positive declaration), the lead agency shall issue a draft scope, which may be prepared by the applicant but must be approved by the lead agency. The lead agency may consult with the OEC and other agencies prior to issuance of the draft scope.

(b) PUBLIC NOTICE AND COMMENT.

Upon issuance of the draft scope and not less than thirty nor more than forty-five days prior to the holding of the public scoping meeting, the lead agency shall publish in the City Record a notice indicating that a draft environmental impact statement will be prepared for the proposed action and requesting public comment with respect to the identification of issues to be addressed in the draft environmental impact statement. Such notice shall be in a format provided by the OEC and shall state that the draft scope and the environmental assessment statement may be obtained by any member of the public from the lead agency and/or the OEC. Such notice shall also contain the date, time and place of the public scoping meeting, shall provide that written comments will be accepted by the lead agency through the tenth day following such

meeting, and shall set forth guidelines for public participation in such meeting.

(c) AGENCY NOTICE AND COMMENT.

Upon issuance of the draft scope and not less than thirty nor more than forty-five days prior to the holding of the public scoping meeting, the lead agency shall circulate the draft scope and the environmental assessment statement to all interested and involved agencies (including the City Council where it is interested or involved), to the applicant, to the OEC and to agencies entitled to send representatives to the public scoping meeting pursuant to section 197-c(d) or 668(a)(7) of the Charter. Together with the draft scope and the environmental assessment statement, a letter shall be circulated indicating the date, time and place of the public scoping meeting, and stating that comments will be accepted by the lead agency through the tenth day following such meeting. The lead agency may consult with other agencies regarding their comments, and shall forward any written comments received pursuant to this subdivision to the OEC.

(d) PUBLIC SCOPING MEETING.

The lead agency shall chair the public scoping meeting. In addition to the lead agency, all other interested and involved agencies that choose to send representatives (including the City Council where it is interested or involved), the applicant, the OEC, and agencies entitled to send representatives pursuant to section 197-c(d) or 668(a)(7) of the Charter may participate. The meeting shall include an opportunity for the public to observe discussion among interested and involved agencies, agencies entitled to send representatives, the applicant and the OEC. Reasonable time shall be provided for the public to comment with respect to the identification of issues to be addressed in the draft environmental impact statement. The OEC shall assist the lead agency in ensuring that the public scoping meeting is conducted in an effective manner.

(e) FINAL SCOPE.

Within thirty days after the public scoping meeting, the lead agency shall issue a final scope, which may be prepared by the applicant and approved by the lead agency. The lead agency may consult further with the OEC and other agencies prior to issuance of the final scope. Where a lead agency receives substantial new information after issuance of a final scope, it may amend the final scope to reflect such information.

(f) **SCOPING OF CITY AGENCY ACTIONS.**

For actions which do not involve private applications, nothing contained in these rules shall be construed to prevent a lead agency, where deemed necessary for complex actions, from extending the time frames for scoping set forth in this section, or from adding additional elements to the scoping process.

§5-08.

Applications and fees.

(a) **APPLICATIONS.**

Applications submitted for City Environmental Quality Review for actions that require such review shall be submitted to the lead agency prescribed by these rules, or to an agency that could be the lead agency for the particular action pursuant to §5-03 of these rules. Such applications shall include information required to be obtained from applicants in order for the lead agency to complete or cause to be completed the standardized environmental assessment statement, and such other documents and additional information as the lead agency may require to make a determination of significance. In addition, except as otherwise provided in these rules, such applications shall conform to the requirements of Executive Order 91. Applicants shall file twenty-five copies of each application.

(b) **FEEES.**

Except as otherwise provided by this section, fees in effect on the effective date of these rules pursuant to Executive Order 91 shall continue to govern City Environmental Quality Review applications, unless the City Planning Commission shall by rule modify such fees. Such fees shall be submitted to the lead agency prescribed by these rules, or to an agency that could be the lead agency for the particular action pursuant to §5-03 of these rules, and shall be in the form of a check or money order made out to the "City of New York."

§5-09.

Transition section.

(a) An action shall not be subject to these rules, but shall comply with Executive Order 91, as in effect prior to the effective date of these rules, where: (1) a classification as exempt, excluded or Type II has been made prior to the effective date of these rules; (2) a project data statement has been completed more than thirty days prior to the effective date of these rules and a determination of significance has not been made prior to the effective date of these rules; (3) a negative declaration or a conditional negative declaration

has been issued prior to the effective date of these rules; or (4) a notice of determination (positive declaration) has been issued more than thirty days prior to the effective date of these rules; provided, however, that if a negative declaration or conditional negative declaration is rescinded, or if a classification as exempt, excluded or Type II is no longer applicable, or if a supplemental environmental impact statement is required, or if a notice of determination (positive declaration) has been issued less than thirty days prior to the effective date of these rules or is issued on or after the effective date of these rules, these rules shall apply, and the lead agency prescribed by or selected pursuant to these rules shall thereupon assume lead agency status at the earliest time practicable.

(b) Except as provided in subdivision (a) of this section, the lead agency prescribed by or selected pursuant to these rules shall assume lead agency status at the earliest time practicable. If a determination of significance has not been made and such lead agency determines that the action requires environmental review, it shall notify the OEC that it is commencing environmental review and shall complete or cause to be completed the standardized environmental assessment statement provided by the OEC, regardless of whether a project data statement has been completed. However, such lead agency shall not be required to engage in scoping pursuant to §5-07 of these rules if a final scope has already been prepared. Until the lead agency prescribed by or selected pursuant to these rules assumes lead agency status, the action shall be subject to Executive Order 91 as in effect prior to the effective date of these rules; however, after the effective date of these rules, the prior lead agency or agencies shall not issue a determination of significance or notice of completion of a draft or final environmental impact statement, classify an action as exempt, excluded or Type II, convene a scoping meeting or conduct a public hearing pursuant to CEQR.

§5-10.

Severability.

The provisions of these rules shall be severable and if any phrase, clause, sentence, paragraph, subdivision or section of these rules, or the applicability thereof to any person or circumstance, shall be held invalid, the remainder of these rules and the application thereof shall not be affected thereby.

§5-11.

Effective date.

These rules shall take effect on October 1, 1991.

PROCEDURES AND DOCUMENTATION APPENDIX 3

**City Environmental Quality Review
Executive Order No. 91 of 1977 As Amended**

**2001 Technical Manual
Out of Date - DO NOT USE**

CITY ENVIRONMENTAL QUALITY REVIEW

Executive Order No. 91 of 1977 as amended

WHEREAS, the improvement of our urban environment is critically important to the overall welfare of the people of the City; and

WHEREAS, the development and growth of the City can and should be reconciled with the improvement of our urban environment; and

WHEREAS, it is the continuing policy of the City that environmental, social and economic factors be considered before governmental approval is given to proposed activities that may significantly affect our urban environment; and

WHEREAS, subdivision (3) of section 8-0113 of Article 8 of the New York State Environmental Conservation Law (State Environmental Quality Review Act, or "SEQRA") and the regulations promulgated thereunder (6 NYCRR 617) authorizes local governments to adopt rules, procedures, criteria and guidelines for incorporating environmental quality review procedures into existing planning and decision making processes; and

WHEREAS, the procedures formulated in this Executive Order are intended to be integrated into existing agency procedures, including the Uniform Land Use Review Procedure contained in section 197-c of Chapter 8 of the City Charter, in order to avoid delay and to encourage a one-stop review process; and

WHEREAS, section 8-0117 of SEQRA, as amended, provides that only actions or classes of actions identified by the State Department of Environmental Conservation as likely to require preparation of an environmental impact statement shall be subject to this Executive Order until November 1, 1978, after which date non-exempt actions will be fully subject to this Executive Order; and

WHEREAS, the implementation of SEQRA in the City by this Executive Order will accomplish the purposes for which Executive Order No. 87 of October 18, 1973 ("Environmental Review of Major Projects") was promulgated and will continue the policy established therein.

NOW, THEREFORE, by the power vested in me as Mayor of the City of New York, Executive Order No. 87 of October 18, 1973 is, in accordance with the provisions of sections 16 and 18 hereunder, hereby replaced by this Executive Order as follows:

§6-01. Applicability

No final decision to carry out or approve any action which may have a significant effect on the environment shall be made by any agency until there has been full compliance with the provisions of this chapter.

§6-02. Definitions

As used herein, the following terms shall have the indicated meanings unless noted otherwise:

- (a) **Action.** "Action" means any activity of an agency, other than an exempt action enumerated in §6-04 of this Executive Order, including but not limited to the following:
- (1) non-ministerial decisions on physical activities such as construction or other activities which change the use or appearance of any natural resource or structure;
 - (2) non-ministerial decisions on funding activities such as the proposing, approval or disapproval of contracts, grants,

Cross reference to CEQR Rules of Procedure

Supplemented by new statement of authority and purpose, Rules, §5-01.

Exec. Order 91 continued except as, otherwise provided, Rules §5-02(a). See new Rules of Construction, Rules §5-02(b).

Except as modified by Rules §5-02(a) and (d).

Additional definitions, Rules §5-02(c).

Subdiv. (a) modified by Rules §5-02(c) (2).

**Cross reference to CEQR
Rules of Procedure**

subsidies, loans, tax abatements or exemptions or other forms of direct or indirect financial assistance, other than expense budget funding activities;

- (3) planning activities such as site selection for other activities and the proposing, approval or disapproval of master or long range plans, zoning or other land use maps, ordinances or regulations, development plans or other plans designed to provide a program for future activities;
- (4) policy making activities such as the making, modification or establishment of rules, regulations, procedures, policies and guidelines;
- (5) non-ministerial decisions on licensing activities, such as the proposing, approval or disapproval of a lease, permit, license, certificate or other entitlement for use or permission to act.

~~(b) Agency. "Agency" means any agency, administration, department, board, commission, council, governing body or any governmental entity of the City of New York, unless otherwise specifically referred to as a state or federal agency.~~

Inapplicable. See Rules §5-02(a), §5-02(c) (3) (i).

(c) Applicant. "Applicant" means any person required to file an application pursuant to this Executive Order.

(d) Conditional negative declaration. "Conditional negative declaration" means a written statement prepared by the lead agencies after conducting an environmental analysis of an action and accepted by the applicant in writing, which announces that the lead agencies have determined that the action will not have a significant effect on the environment if the action is modified in accordance with conditions or alternatives designed to avoid adverse environmental impacts.

(e) DEC. "DEC" means the New York State Department of Environmental Conservation.

(f) Environment. "Environment" means the physical conditions which will be affected by a proposed action, including land, air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance, existing patterns of population concentration, distribution or growth, and existing community or neighborhood character.

(g) Environmental analysis. "Environmental analysis" means the lead agencies' evaluation of the short and long term, primary and secondary environmental effects of an action, with particular attention to the same areas of environmental impacts as would be contained in an EIS. It is the means by which the lead agencies determine whether an action under consideration may or will not have a significant effect on the environment.

(h) Environmental assessment form. "Environmental assessment form" means a written form completed by the lead agencies, designed to assist their evaluation of actions to determine whether an action under consideration may or will not have a significant effect on the environment.

Retitled Environmental Assessment Statement; see Rules §5-04(c) (3).

(i) Environmental impact statement (EIS). "Environmental impact statement (EIS)" means a written document prepared in accordance with §6-08, §6-10, §6-12 and §6-13 of this Executive Order. An EIS may either be in a draft or a final form.

**Cross reference to CEQR
Rules of Procedure**

- (j) Environmental report. "Environmental report" means a report to be submitted to the lead agencies by a non-agency applicant when the lead agencies prepare or cause to be prepared a draft EIS for an action involving such an applicant. An environmental report shall contain an analysis of the environmental factors specified in §6-10 of this Executive Order as they relate to the applicant's proposed action and such other information as may be necessary for compliance with this Executive Order, including the preparation of an EIS.
- ~~(k) Lead agencies. "Lead agencies" means the Department of Environmental Protection and the Department of City Planning of the City of New York, as designated by the Mayor pursuant to section 617.4 of Part 617 of Volume 6 of the New York Code of Rules and Regulations, for the purpose of implementing the provisions of Article 8 of the Environmental Conservation Law (SEQRA) in the City of New York, by order dated December 23, 1976.~~
- (l) Ministerial action. "Ministerial action" means an action performed upon a given state of facts in a prescribed manner imposed by law without the exercise of any judgment or discretion as to the propriety of the action, although such law may require, in some degree, a construction of its language or intent.
- (m) Negative declaration. "Negative declaration" means a written statement prepared by the lead agencies after conducting an environmental analysis of an action which announces that the lead agencies have determined that the action will not have a significant effect on the environment.
- (n) Notice of determination. "Notice of determination" means a written statement prepared by the lead agencies after conducting an environmental analysis of an action which announces that the lead agencies have determined that the action may have a significant effect on the environment, thus requiring the preparation of an EIS.
- (o) NYCRR. "NYCRR" means the New York Code of Rules and Regulations.
- (p) Person. "Person" means an agency, individual, corporation, governmental entity, partnership, association, trustee or other legal entity.
- ~~(q) Project data statement. "Project data statement" means a written submission to the lead agencies by an applicant on a form prescribed by the lead agencies, which provides an identification of and information relating to the environmental impact of a proposed action. The project data statement is designed to assist the lead agencies in their evaluation of an action to determine whether an action under consideration may or will not have significant effect on the environment.~~
- (r) SEQRA. "SEQRA" means the State Environmental Quality Review Act (Article 8 of the New York State Environmental Conservation Law).
- (s) Typically associated environmental effect. "Typically associated environmental effect" means changes in one or more natural resources which usually occur because of impacts on other such resources as a result of natural interrelationships or cycles.
- (t) ULURP. "ULURP" means the Uniform Land Use Review Procedure (section 197-c of Chapter 8 of the New York City Charter).

***Inapplicable, Rules §5-02(a).
Superseded by Rules §5-02(b)
(1) and §5-02(c) (3) (vi); also see
Rules §5-03 for choice of lead
agency.***

See also Rules §5-02(c) (3) (iii).

See also Rules §5-02(c) (3) (vii).

***Inapplicable, Rules §5-02(a).
Superseded by Environmental
Assessment Statement, see
Rules §5-04(c) (3). See also
Rules §5-05(b) (1) and 5-08(a).***

§6-03. Actions Involving Federal or State Participation

- (a) If an action under consideration by any agency may involve a "major federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969," then the following procedures shall apply:
- (1) in the case of an action for which there has been duly prepared both a draft EIS and final EIS, no agency shall have an obligation to prepare an EIS or to make findings pursuant to §6-12 of this Executive Order.
 - (2) in the case of an action for which there has been prepared a Negative Declaration or other written threshold determination that the action will not require a federal impact statement under the National Environmental Policy Act of 1969, the lead agencies shall determine whether or not the action may have a significant effect on the environment pursuant to this Executive Order, and the action shall be fully subject to the same.

~~(b) If an action under consideration by any agency may involve any state action which may have a significant effect on the environment under SEQRA, pursuant to which a state agency is required to comply with the procedures specified in 6 NYCRR 617, then the determination as to whether the state agency or the lead agencies shall be responsible for the environmental review shall be made on the basis of the following criteria:~~

- ~~(1) the agency to first act on the proposed action;~~
- ~~(2) a determination of which agency has the greatest responsibility for supervising or approving the action as a whole;~~
- ~~(3) a determination of which agency has more general governmental powers as compared to single or limited powers or purposes;~~
- ~~(4) a determination of which agency has the greatest capability for providing the most thorough environmental assessment of the action;~~
- ~~(5) a determination of whether the anticipated impacts of the action being considered are primarily of statewide, regional or local concern, e.g., if such impacts are primarily of local concern, the lead agencies shall conduct the environmental review.~~

~~If this determination cannot be made within 30 days of the filing of an application, the Commissioner of DEC shall be requested, in writing, to make such determination.~~

§6-04. Exempt Actions

The following actions shall not be subject to the provisions of this Executive Order:

- (a) projects or activities classified as Type I pursuant to §6-15 of this Executive Order directly undertaken or funded by an agency prior to June 1, 1977 ~~except~~ that if such action is sought to be modified after June 1, 1977 which modification may have a significant adverse effect on the environment, then such modification shall be an action fully subject to the requirements of this Executive Order;
- (1) such actions include, but are not limited to, those actions defined in §6-02 "Action" (1), (2), (3) and (4) of this Executive Order;

Cross reference to CEQR Rules of Procedure

See also Rules §5-04(e).

Inapplicable, Rules §5-02(a). Entire subdivision (b) superseded by Rules §5-03(j) and §5-04(d).

See also Rules §5-02(d).

- (2) an action shall be deemed to be undertaken at the point that:
- (i) the agency is irreversibly bound or committed to the ultimate completion of a specifically designed activity or project; or
 - (ii) in the case of construction activities, a contract for substantial construction has been entered into or if a continuous program of on-site construction or modification has been engaged in; or
 - (iii) the agency gives final approval for the issuance to an applicant of a discretionary contract, grant subsidy, loan or other form of financial assistance; or
 - (iv) in the case of an action involving federal or state participation, a draft EIS has been prepared pursuant to the National Environmental Policy Act of 1969 or SEQRA, respectively.
- (b) projects or activities classified as Type I pursuant to §6-15 of this Executive Order approved by an agency prior to September 1, 1977 except that if such action is sought to be modified after September 1, 1977, which modification may have a significant adverse effect on the environment, then such modification shall be an action fully subject to the requirements of this Executive Order;
- (1) such actions include, but are not limited to, those actions defined in §6-02 "Action" (2) and (5) of this Executive Order;
 - (2) an action shall be deemed to be approved at the point that:
 - (i) the agency gives final approval for the issuance to an applicant of a discretionary contract, grant, subsidy, loan or other form of financial assistance; or
 - (ii) the agency gives final approval for the issuance to an applicant of a discretionary lease, permit, license, certificate or other entitlement for use or permission to act; or
 - (iii) in the case of an action involving federal or state participation, a draft EIS has been prepared pursuant to the National Environmental Policy Act of 1969 or SEQRA, respectively.
- (c) projects or activities not otherwise classified as Type I pursuant to §6-15 of this Executive Order directly undertaken, funded or approved by an agency prior to November 1, 1978 except that if such action is sought to be modified after November 1, 1978, which modification may have a significant adverse effect on the environment, then such modification shall be an action fully subject to the requirements of this Executive Order;
- (1) such actions include, but are not limited to, those actions defined in §6-02 "Action" of this Executive Order;
 - (2) an action shall be deemed to be undertaken as provided in subsections (a)(2) and (b)(2) of this section, as applicable.
- (d) enforcement or criminal proceedings or the exercise of prosecutorial discretion in determining whether or not to institute such proceedings;
- (e) ministerial actions, which shall appear on a list compiled, certified and made available for public inspection by the lead agencies, except as provided in §6-15(a), Type I, of this Executive Order, relating to critical areas and historic resources;
- (f) maintenance or repair involving no substantial changes in existing structures or facilities;
- (g) actions subject to the provisions requiring a certificate of environmental compatibility and public need in Articles 7 and 8 of the Public Service Law;

See Rules §5-02(d).

- (h) actions which are immediately necessary on a limited emergency basis for the protection or preservation of life, health, property or natural resources; and
- (i) actions of the Legislature of the State of New York or of any court.

**Cross reference to CEQR
Rules of Procedure**

**§6-05. Determination of Significant Effect;
Applications**

- ~~(a) Each agency shall ascertain whether an application need be filed pursuant to this section, employing lists of actions, classified as either exempt, Type I or Type II pursuant to §6-04 and §6-15 of this Executive Order, respectively, which lists shall be certified by the lead agencies.~~
- (b) The applicant initiating the proposed action, other than an exempt or Type II action pursuant to §6-04 and §6-15 of this Executive Order, shall file an application with the lead agencies, which application shall include a Project Data Statement and such other documents and additional information as the lead agencies may require to conduct an environmental analysis to determine whether the action may or will not have a significant effect on the environment. Where possible existing City applications shall be modified to incorporate this procedure and a one-stop review process developed;
 - (1) within 20 calendar days of receipt of the application, or of a determination pursuant to §6-03(b) of this Executive Order, if applicable, the lead agencies shall notify the applicant, in writing, whether the application is complete or whether additional information is required;
 - (2) when all required information has been received, the lead agencies shall notify the applicant, in writing, that the application is complete.
- (c) Each application shall include an identification of those agencies, including federal and state agencies, which to the best knowledge of the applicant, have jurisdiction by law over the action or any portion thereof.
- (d) Where appropriate, the application documents may include a concise statement or reasons why, in the judgment of the applicant, the proposed action is one which will not require the preparation of an EIS pursuant to this Executive Order.
- (e) Initiating applicants shall consider the environmental impacts of proposed actions and alternatives at the earliest possible point in their planning processes, and shall develop wherever possible, measures to mitigate or avoid adverse environmental impacts. A statement discussing such considerations, alternatives and mitigating measures shall be included in the application documents.
- (f) Nothing in this section shall be deemed to prohibit an applicant from submitting a preliminary application in the early stages of a project or activity for review and comment by the lead agencies.

***Inapplicable, Rules §5-02(a).
Superseded by Rules §5-05(a).
See also Rules §5-02(b) (2) and
§5-02(d).***

***Introductory paragraph inap-
plicable, Rules §5-02(a). Para-
graph (b) superseded by Rules
§5-08.***

***Determination pursuant to
§5-03(b) deemed to refer to
lead agency selection pursuant
to Rules §5-03. See Rules
§5-02(b) (3).***

§6-06. Determination of Significant Effect; Criteria

Cross reference to CEQR Rules of Procedure

- (a) An action may have a significant effect on the environment if it can reasonably be expected to lead to one of the following consequences:
- (1) a substantial adverse change to ambient air or water quality or noise levels or in solid waste production, drainage, erosion or flooding;
 - (2) the removal or destruction of large quantities of vegetation or fauna, the substantial interference with the movement of any resident or migratory fish or wildlife species, impacts on critical habitat areas, or the substantial affecting of a rare or endangered species of animal or plant or the habitat of such a species;
 - (3) the encouraging or attracting of a large number of people to a place or places for more than a few days relative to the number of people who would come to such a place absent the action;
 - (4) the creation of a material conflict with a community's existing plans or goals as officially approved or adopted;
 - (5) the impairment of the character or quality of important historical, archeological, architectural or aesthetic resources (including the demolition or alteration of a structure which is eligible for inclusion in an official inventory of such resources), or of existing community or neighborhood character;
 - (6) a major change in the use of either the quantity or type of energy;
 - (7) the creation of a hazard to human health or safety;
 - (8) a substantial change in the use or intensity of use of land or other natural resources or in their capacity to support existing uses, except where such a change has been included, referred to, or implicit in a broad "programmatic" EIS prepared pursuant to §6-13 of this Executive Order;
 - (9) the creation of a material demand for other actions which would result in one of the above consequences;
 - (10) changes in two or more elements of the environment, no one of which is substantial, but when taken together result in a material change in the environment.
- (b) For the purpose of determining whether an action will cause one of the foregoing consequences, the action shall be deemed to include other contemporaneous or subsequent actions which are included in any long-range comprehensive integrated plan of which the action under consideration is a part, which are likely to be undertaken as a result thereof, or which are dependent thereon. The significance of a likely consequence (i.e. whether it is material, substantial, large, important, etc.) should be assessed in connection with its setting, its probability of occurring, its duration, its irreversibility, its controllability, its geographic scope and its magnitude (i.e. degree of change or its absolute size). §6-15 of this Executive Order refers to lists of actions which are likely to have a significant effect on the environment and contains lists of actions found not to have a significant effect on the environment.

Reference to §6-15(b), Type II list, deemed to be State Type II list of 6 NYCRR Part 617.13. See Rules §5-02(b) (2).

§6-07. Determination of Significant Effect; Notification

- (a) The lead agencies shall determine within 15 calendar days following notification of completion of the application pursuant to §6-05(a) of this Executive Order whether the proposed action may have a significant effect on the environment;
- (1) in making their determination, the lead agencies shall employ the Environmental Assessment Form, apply the criteria contained in §6-06 and consider the lists of actions contained in §6-15 of this Executive Order;
 - (2) the lead agencies may consult with, and shall receive the cooperation of any other agency before making their determination pursuant to this subdivision (a).
- (b) The lead agencies shall provide written notification to the applicant immediately upon determination of whether the action may or will not have a significant effect on the environment. Such determination shall be in one of the following forms:
- (1) Negative Declaration. If the lead agencies determine that the proposed action is not an exempt action or a Type II action pursuant to §6-04 and §6-15 of this Executive Order, respectively, and that the action will not have a significant effect on the environment, they shall issue a Negative Declaration which shall contain the following information:
 - (i) an action identifying number;
 - (ii) a brief description of the action;
 - (iii) the proposed location of the action;
 - (iv) a statement that the lead agencies have determined that the action will not have a significant effect on the environment;
 - (v) a statement setting forth the reasons supporting the lead agencies' determination.
 - (2) Conditional Negative Declaration. If the lead agencies determine that the proposed action is not an exempt action or a Type II action pursuant to §6-04 and §6-15 of this Executive Order, respectively, and that the action will not have a significant effect on the environment if the applicant modifies its proposed action in accordance with conditions or alternatives designed to avoid adverse environmental impacts, they shall issue a Conditional Negative Declaration which shall contain the following information (in addition to the information required for a Negative Declaration pursuant to paragraph (1) of this subdivision):
 - (i) a list of the conditions, modifications or alternatives to the proposed action which supports the determination;
 - (ii) the signature of the applicant or its authorized representative, accepting the conditions, modifications or alternatives to the proposed action;
 - (iii) a statement that if such conditions, modifications or alternatives are not fully incorporated into the proposed action, such Conditional Negative Declaration shall become null and void. In such event, a Notice of Determination shall be immediately issued pursuant to paragraph (3) of this subdivision.

Cross reference to CEQR Rules of Procedure

Error. Reference to §6-05(a) should be to §6-05(b).

Reference to §6-15(b) Type II list, deemed to be State Type II list of 6 NYCRR Part 617.13. See Rules §5-02(b) (2).

Reference to §6-15(b) Type II list, deemed to be State Type II list of 6 NYCRR Part 617.13. See Rules §5-02(b) (2).

Reference to §6-15(b) Type II list, deemed to be State Type II list of 6 NYCRR Part 617.13. See Rules §5-02(b) (2).

(3) **Notice of Determination.** If the lead agencies determine that the proposed action is not an exempt action or a Type II action pursuant to §6-04 and §6-15 of this Executive Order, respectively, and that the action may have a significant effect on the environment, they shall issue a Notice of Determination which shall contain the following information:

- (i) an action identifying number;
- (ii) a brief description of the action;
- (iii) the proposed location of the action;
- (iv) a brief description of the possible significant effects on the environment of the action;
- (v) a request that the applicant prepare or cause to be prepared, at its option, a draft EIS in accordance with §6-08 and §6-12 of this Executive Order.

(c) The lead agencies shall make available for public inspection the Negative Declaration, Conditional Negative Declaration or the Notice of Determination, as the case may be, and circulate copies of the same to the applicant, the regional director of DEC, the commissioner of DEC, the appropriate Community Planning Board(s), the City Clerk, and all other agencies, including federal and state agencies, which may be involved in the proposed action.

Cross reference to CEQR Rules of Procedure

Reference to §6-15(b), Type II list, deemed to be State Type II list of 6 NYCRR Part 617.13. See Rules §5-02(b) (2).

See additional circulation provisions, Rules §5-06(b) and §5-06(c). City Clerk function transferred to OEC, Rules §5-02(b) (4).

§6-08. Draft Environmental Impact Statements; Responsibility for Preparation

(a) **Non-agency applicants:**

- (1) after receipt of a Notice of Determination pursuant to §6-07(c) (3) of this Executive Order, a non-agency applicant shall notify the lead agencies in writing as to whether it will exercise its option to prepare or cause to be prepared a draft EIS, and as to whom it has designated to prepare the draft EIS, provided that no person so designated shall have an investment or employment interest in the ultimate realization of the proposed action;
- (2) the lead agencies may prepare or cause to be prepared a draft EIS for an action involving a non-agency applicant. In such event, the applicant shall provide, upon request, an environmental report to assist the lead agencies in preparing or causing to be prepared the draft EIS and such other information as may be necessary. All agencies shall fully cooperate with the lead agencies in all matters relating to the preparation of the draft EIS.
- (3) if the non-agency applicant does not exercise its option to prepare or cause to be prepared a draft EIS, and the lead agencies do not prepare or cause to be prepared such draft EIS, then the proposed action and review thereof shall terminate.

Rules add formal scoping, Rules §5-07. Interested and involved agencies assist with DEIS on request. See Rules §5-05(b) (2).

See also Rules §5-05(b) (3) for requirements of lead consultation on mitigations.

(b) **Agency applicants:**

- (1) when an action which may have significant effect on the environment is initiated by an agency, the initiating agency shall be directly responsible for the preparation of a draft EIS. However, preparation of the draft EIS may be coordinated through the lead agencies.

- (2) all agencies, whether or not they may be involved in the proposed action, shall fully cooperate with the lead agencies and the applicant agency in all matters relating to the coordination of the preparation of the draft EIS.
- (c) Notwithstanding the provisions contained in subdivisions (a) and (b) of this section, when a draft EIS is prepared, the lead agencies shall make their own independent judgment of the scope, contents and adequacy of such draft EIS.

Cross reference to CEQR Rules of Procedure

See Rules §5-05(b)(3) for requirements of lead consultation on mitigations.

§6-09. Environmental Impact Statements; Content

Lead to be guided by technical standards and methodologies developed by OEC, Rules §5-04(c).

- (a) Environmental impact statements should be clearly written in a brief and concise manner capable of being read and understood by the public. Within the framework presented in subdivision (d) of this section, such statements should deal only with the specific significant environmental impacts which can be reasonably anticipated. They should not contain more detail than is appropriate considering the nature and magnitude of the proposed action and the significance of its potential impacts.
- (b) All draft and final EIS's shall be preceded by a cover sheet stating:
 - (1) whether it is a draft or a final;
 - (2) the name or other descriptive title of the action;
 - (3) the location of the action;
 - (4) the name and address of the lead agencies and the name and telephone number of a person at the lead agencies to be contacted for further information;
 - (5) identification of individuals or organizations which prepared any portion of the statement; and
 - (6) the date of its completion.
- (c) If a draft or final EIS exceeds ten pages in length, it shall have a table of contents following the cover sheet.
- (d) The body of all draft and final EIS's shall at least contain the following:
 - (1) a description of the proposed action and its environmental setting;
 - (2) a statement of the environmental impacts of the proposed action, including its short-term and long-term effects, and typical associated environmental effects;
 - (3) an identification of any adverse environmental effects which cannot be avoided if the proposed action is implemented;
 - (4) a discussion of the social and economic impacts of the proposed action;
 - (5) a discussion of alternatives to the proposed action and the comparable impacts and effects of such alternatives;
 - (6) an identification of any irreversible and ir retrievable commitments of resources which would be involved in the proposed action should it be implemented;

- (7) a description of mitigation measures proposed to minimize adverse environmental impacts;
 - (8) a description of any growth-inducing aspects of the proposed action, where applicable and significant;
 - (9) a discussion of the effects of the proposed action on the use and conservation of energy, where applicable and significant;
 - (10) a list of underlying studies, reports or other information obtained and considered in preparing the statement; and
 - (11) (for the final EIS only) copies or a summary of the substantive comments received in response to the draft EIS and the applicant's response to such comments.
- (e) An EIS may incorporate by reference all or portions of other documents which contain information relevant to the statement. The referenced documents shall be made available to the public in the same places where copies of the statement are made available. When a statement uses incorporation by reference, the referenced document shall be briefly described and its date of preparation provided.

§6-10. Draft Environmental Impact Statements: Procedures

- (a) Notice of Completion. Upon the satisfactory completion of a draft EIS, the lead agencies shall immediately prepare, file and make available for public inspection a Notice of Completion as provided in paragraphs (1), (2) and (3) of this subdivision. Where a proposed action is simultaneously subject to the Uniform Land Use Review Procedure ("ULURP"), the City Planning Commission shall not certify an application pursuant to ULURP until a Notice of Completion has been filed as provided in paragraph (3) of this subdivision.
- (1) Contents of Notice of Completion. All Notices of Completion shall contain the following:
 - (i) an action identifying number;
 - (ii) a brief description of the action;
 - (iii) the location of the action and its potential impacts and effects; and
 - (iv) a statement that comments on the draft EIS are requested and will be received and considered by the lead agencies at their offices. The Notice shall specify the public review and comment period on the draft EIS, which shall be for not less than 30 calendar days from the date of filing and circulation of the notice, or not less than 10 calendar days following the close of a public hearing on the draft EIS, whichever last occurs.
 - (2) Circulating Notice of Completion. All Notices of Completion shall be circulated to the following:
 - (i) all other agencies, including federal and state agencies, involved in the proposed action;
 - (ii) all persons who have requested it;
 - (iii) the editor of the State Bulletin;
 - (iv) the State clearinghouse;

- (v) the appropriate regional clearinghouse designated under the Federal Office of Management and Budget Circular A-95.

**Cross reference to CEQR
Rules of Procedure**

(3) **Filing Notice of Completion.** All Notices of Completion shall be filed with and made available for public inspection by the following:

- (i) the Commissioner of DEC;
- (ii) the regional director of DEC;
- (iii) the agency applicant, where applicable;
- (iv) the appropriate Community Planning Board(s);
- (v) the City Clerk;
- (vi) the lead agencies.

(b) **Filing and availability of draft EIS.** All draft EIS's shall be filed with and made available for public inspection by the same persons and agencies with whom Notices of Completion must be filed pursuant to paragraph (a)(3) of this section.

City clerk function transferred to OEC. Rules §5-02(b) (4).

(c) **Public hearings on draft EIS.**

- (1) Upon completion of a draft EIS, the lead agencies shall conduct a public hearing on the draft EIS.
- (2) The hearing shall commence no less than 15 calendar days or more than 60 calendar days after the filing of a draft EIS pursuant to subdivision (b) of this section, except where a different hearing date is required as appropriate under another law or regulation.
- (3) Notice of the public hearing may be contained in the Notice of Completion or, if not so contained, shall be given in the same manner in which the Notice of Completion is circulated and filed pursuant to subdivision (a) of this section. In either case, the notice of hearing shall also be published at least 10 calendar days in advance of the public hearing in a newspaper of general circulation in the area of the potential impact and effect of the proposed action.
- (4) Where a proposed action is simultaneously subject to ULURP, a public hearing conducted by the appropriate community or borough board and/or the City Planning Commission pursuant to ULURP shall satisfy the hearing requirement of this section. Where more than one hearing is conducted by the aforementioned bodies, whichever hearing last occurs shall be deemed the hearing for purposes of this Executive Order.

**§6-11. Final Environmental Impact Statements;
Procedures**

- (a) Except as provided in paragraph (1) of this subdivision, the lead agencies shall prepare or cause to be prepared a final EIS within 30 calendar days after the close of a public hearing.
 - (1) If the proposed action has been withdrawn or if, on the basis of the draft EIS and the hearing, the lead agencies have determined that the action will not have a significant effect on the environment, no final EIS shall be prepared. In such cases, the lead agencies shall prepare, file and circulate a Negative Declaration as prescribed in §6-07 of this Executive Order.

Interested and involved agencies assist with FEIS on request, Rules §5-05(b) (2).

- (2) The final EIS shall reflect a revision and updating of the matters contained in the draft EIS in the light of further review by the lead agencies, comments received and the record of the public hearing.
- (b) immediately upon the completion of a final EIS, the lead agencies shall prepare, file, circulate and make available for public inspection a Notice of Completion of a final EIS in the manner specified in §6-11(a) of this Executive Order, provided, however, that the Notice shall not contain the statement described in subparagraph (a)(1)(iv) of such section.
- (c) Immediately upon completion of a final EIS, copies shall be filed and made available for public inspection in the same manner as the draft EIS pursuant to §6-11(b) of this Executive Order.

§6-12. Agency Decision Making

- (a) No final decision to carry out or approve an action which may have a significant effect on the environment shall be made until after the filing and consideration of a final EIS.
 - (1) ~~Except as provided in paragraph (2) of this subdivision where a final decision whether or not to carry out or approve an action is required by law to be made by any agency, such decision shall be made within 30 calendar days of the filing of a final EIS.~~
 - (2) ~~Where a proposed action is simultaneously subject to ULURP, the final decision whether or not to carry out or approve the action shall be made by the Board of Estimate within 60 calendar days of the filing of the final EIS.~~
- (b) When an agency decides to carry out or approve an action which may have a significant effect on the environment, it shall make the following findings in a written decision:
 - (1) consistent with social, economic and other essential considerations of state and city policy, from among the reasonable alternatives thereto, the action to be carried out or approved is one which minimizes or avoids adverse environmental effects to the maximum extent possible, including the effects disclosed in the relevant environmental impact statement;
 - (2) consistent with social, economic and other essential consideration of state and city policy, all practicable means will be taken in carrying out or approving the action to minimize or avoid adverse environmental effects.
- (c) For public information purposes, a copy of the Decision shall be filed in the same manner as the draft EIS pursuant to §6-11(b) of this Executive Order.

Inapplicable, Rules §5-02(a).

§6-13. Programmatic Environmental Impact Statements

- (a) Whenever possible, agencies shall identify programs or categories of actions, particularly projects or plans which are wide in scope or implemented over a long time frame, which would most appropriately serve as the subject of a single EIS. Broad program statements, master or area wide statements, or statements for comprehensive plans are often appropriate to assess the environmental effects of the following:

- (1) a number of separate actions in a given geographic area;
 - (2) a chain of contemplated actions;
 - (3) separate actions having generic or common impacts;
 - (4) programs or plans having wide application or restricting the range of future alternative policies or projects.
- (b) No further EIS's need be prepared for actions which are included in a programmatic EIS prepared pursuant to subdivision (a) of this section. However:
- (1) a programmatic EIS shall be amended or supplemented to reflect impacts which are not addressed or adequately analyzed in the EIS as originally prepared; and
 - (2) actions which significantly modify a plan or program which has been the subject of an EIS shall require a supplementary EIS;
 - (3) programmatic EIS's requiring amendment and actions requiring supplementary EIS's pursuant to this subsection shall be processed in full compliance with the requirements of this Executive Order.

§6-14. Rules and Regulations

~~The lead agencies shall promulgate such rules, regulations, guidelines, forms and additional procedures as may be necessary to implement this Executive Order.~~

Inapplicable, Rules §5-02(a).

§6-15. Lists of Actions

(a) **TYPE I.** Type I actions enumerated in §617.12 of 6 NYCRR 617 are likely to, but will not necessarily, require the preparation of an EIS because they will in almost every instance significantly affect the environment. However, ministerial actions never require the preparation of an EIS ~~except~~ where such actions may directly affect a critical area or an historic resource enumerated in paragraphs (22) and (23), respectively, of subdivision (a) of §617.12. In addition, for the purpose of defining paragraph (2) of said subdivision and section, the following thresholds shall apply:

See Rules §5-02(d).

- (1) relating to public institutions:
 - (i) new correction or detention centers with an inmate capacity of at least 200 inmates;
 - (ii) new sanitation facilities, including:
 - (A) incinerators of at least 250 tons/day capacity;
 - (B) garages with a capacity of more than 50 vehicles;
 - (C) marine transfer stations;
 - (iii) new hospital or health related facilities containing at least 100,000 sq. ft. of floor area;
 - (iv) new schools with seating capacity of at least 1,500 seats;

**Cross reference to CEQR
Rules of Procedure**

- (v) any new community or public facility not otherwise specified herein, containing at least 100,000 sq. ft. of floor area, or the expansion of an existing facility by more than 50 percent of size or capacity, where the total size of the expanded facility exceeds 100,000 sq. ft. of floor area.
- (2) relating to major office centers: any new office structure which has a minimum of 200,000 sq. ft. of floor area and exceeds permitted floor area under existing zoning by more than 20 percent, or the expansion of an existing facility by more than 50 percent of floor area, where the total size of the expanded facility exceeds 240,000 sq. ft. of floor area.

(b) TYPE II.

See Rules §5-02(d).

- (1) Type II actions will never require the preparation of an EIS because they are determined not to have a significant effect on the environment, except where such actions may directly affect a critical area or an historic resource enumerated in paragraphs (22) and (23), respectively, of subdivision (a) of §617.12 of 6 NYCRR 617.

- ~~(2) Pursuant to SEGRA, as amended, a list of Type II actions shall be promulgated prior to July 1, 1978, to become effective on September 1, 1978.~~

Inapplicable. Replaced by State Type II list 6 NYCRR Part 617.13. See Rules §5-02(a) and §5-02(b) (2).

§6-16. Related Orders; Repeal

- (a) Executive Order No. 87 of October 18, 1973 shall remain in effect prior to the effective dates of this Executive Order pursuant to Article 8 of the Environmental Conservation Law.
- (b) In the event of the repeal of Article 8 of the Environmental Conservation Law, Executive Order No. 87 of October 18, 1973 shall replace this Executive Order.

§6-17. Evaluation of Effectiveness

The lead agencies shall conduct a public hearing, not later than June 1, 1979, for the purpose of evaluating the effectiveness of this Executive Order in implementing the State Environmental Quality Review Act, and its impact on the City's physical and economic development process.

§6-18. Effective Date

This Executive Order shall take effect immediately.

See new transition Rules §5-08 and §5-11. New Rules effective Oct. 1, 1991.

ABRAHAM D. BEAME
Mayor, City of New York

HAZARDOUS MATERIALS APPENDIX

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HAZARDOUS MATERIALS APPENDIX 1

List of Facilities, Activities, or Conditions Requiring Assessments

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List of Facilities, Activities or Conditions
Requiring Assessments

1. A facility, on or adjacent to the site, which generates (including small quantity generator), stores, treats or disposes of hazardous waste, as defined by USEPA under the RCRA Law and/or NYS DEC.
2. A facility which manufactures, produces, prepares, compounds, processes uses, repackages or disposes of hazardous chemicals, as defined under the NYC Community Right-to-Know Law (1988).
3. A facility, on or adjacent to the site, which is included on the following list:

Adhesives and sealants manufacture
Advertising displays manufacture
Agricultural machinery manufacture (including repairs)
Aluminum manufacture or aluminum products manufacture
Aircraft manufacture (including parts)
Airports Appliance (electrical) manufacture
Art goods manufacture
Asphalt or asphalt products manufacture
Athletic equipment manufacture
Automobile and other laundries
Automobile manufacture
Automobile rental establishments
Automobile wrecking establishments
Automobile service stations
Battery manufacture
Bicycle manufacture
Blacksmith shops
Blueprinting establishments
Boat repair
Boat fuel sales
Boat storage
Business machine manufacture
Camera manufacture
Canvas or canvas products manufacture
Carpet
Cleaning establishments
Carpet manufacture
Cement manufacture
Ceramic products manufacture
Charcoal manufacture
Chemical compounding or packaging
Chemical manufacture
Cleaning or cleaning and dyeing establishments
Clock manufacture
Clothing manufacture
Coal products manufacture

Coal sales or storage
Coke products manufacture
Coil coating
College, university, trade school laboratories
Construction machinery manufacture
Copper forming or copper products manufacture
Cosmetics or toiletries manufacture
Dental instruments manufacture
Dental laboratories
Disinfectant manufacture
Drafting instruments manufacture
Dry cleaning establishments
Dumps
Electric power or steam generating plants
Electric power substations
Electric and electronic components manufacture
Electric appliance manufacture
Electric supplies manufacture
Electroplating
Electrotyping or stereotyping
Engraving or photo-engraving
Exterminators
Explosives manufacture
Felt products manufacture
Felt products bulk processing, washing or curing
Fertilizer manufacture
Filling stations
Film manufacture
Fire stations
Foundries ferrous or non-ferrous
Fuel sales
Fungicides manufacture
Fur tanning, curing, finishing or dyeing
Furniture manufacture
Garbage incineration, storage or reduction
Gas manufacture, storage
Gasoline service stations
Generating plants, electric or steam
Glass manufacture
Glue manufacture
Golf courses
Graphite or graphite products manufacture
Gum and wood chemicals manufacture or processing
Hair products manufacture
Hardware manufacture
Heliports
Incineration or garbage reduction
Ink or ink ribbon manufacture
Insecticides manufacture
Inorganic chemicals manufacture
Iron and steel manufacture
Jewelry manufacture

Junk yards
Laboratories, medical, dental, research, experimental
Leather tanning, curing, finishing or dyeing
Leather products manufacture
Linoleum manufacture
Luggage manufacture
Lumber processing
Machine shops including tool, die, or pattern making
Machine tools manufacture
Machinery manufacture or repair
Mechanical products manufacture
Medical appliance manufacture
Medical instruments manufacture
Medical laboratories
Metals manufacture including alloys or foil
Metal casting or foundry products
Metal finishing, plating, grinding, polishing, cleaning,
rust-proofing, heat treatment
Metal ores reduction or refining
Metal products treatment or processing
Metal reduction, refining, smelting or alloying
Metal treatment or processing
Mining machinery manufacture
Mirror silvering shops
Motor cycle manufacture
Motor freight stations
Musical instrument manufacture
Newspaper publishing
Non-ferrous metals manufacture
Office equipment or machinery repair shops
Oil, public utility stations for metering or regulating oil sales
Oil storage
Optical equipment manufacture
Organic chemicals manufacture
Orthopedic appliance manufacture
Ore mining
Paint and ink manufacture
Paper and pulp mills Paper products manufacture
Pesticides manufacture
Petroleum or petroleum products refining
Petroleum or petroleum products storage and handling
Pharmaceutical products manufacture or preparation
Photographic equipment and supplies manufacture
Plastics and synthetic products manufacture and processing
Plastics raw manufacture
Plumbing equipment manufacture
Porcelain enameling
Precision instruments manufacture
Printing and publishing
Pumping stations, sewage
Radioactive waste disposal services
Railroad equipment manufacture

Railroad rights-of-way, substations
Railroad freight terminals, yards or appurtenances
Refrigerating plants
Rubber processing or manufacture
Rubber products manufacture
Sewage disposal plants, pumping stations
Ship or boat building repair yards
Shipping waterfront
Shoes manufacture
Sign painting shops
Silver plating shops
Silverware manufacture, plate or sterling
Slag piles
Soap and detergent manufacture
Soldering shops
Solvent extraction
Steam electric power plants
Steel products manufacture
Tar products manufacture
Textiles bleaching, products manufacture or dyeing
Textile mills
Thermometer manufacture or assembly
Tile manufacture
Timber products manufacture
Tool or hardware manufacture
Toys manufacture
Trailer manufacture
Transit substations
Truck manufacture
Trucking terminals or motor freight stations
Turpentine manufacture
Varnish manufacture
Vehicles manufacture
Venetian blind manufacture
Welding shops
Wood distillation

HAZARDOUS MATERIALS APPENDIX 2

Environmental Database Search Firms

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Appendix 2

Environmental Database Search Firms

Toxics Targeting, Inc.
215 North Cayuga Street
Ithaca, New York 14850
Telephone: (607) 273-7464
Fax (607) 277-8290
Website: www.toxicstargeting.com

Vista Information Solutions, Inc.
5060 Shoreham Place

San Diego, CA 92122
Telephone: 1-800-767-0403
Fax: 1-619-450-6195
Website: www.vistainfo.com
www.vistacheck.com

Environmental Data Resources, Inc.
3530 Post Road
Southport, CT.06490
Telephone: 1-800-352-0050
Fax: 1-800-231-6802
Website: www.edrnet.com

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HAZARDOUS MATERIALS APPENDIX 3

Examples of the Required Level of Effort for Phase II ESA's at Typical Sites

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Appendix 3 Examples of the Required Level of Effort for Phase II ESA's at Typical Sites

Recognized Environmental Condition	Contaminant of Concern	Waste & Surface Samples	Soil Sampling Preferred Method	# of Probes	Suggested Depths	Groundwater Sampling	Groundwater Sampling Preferred Method	Comments	Estimated Range of Phase II Costs
Single UST	Product Stored	Soils/sediments near fill port	Soil Probes	2 per tank	into waterable or 10 ft below tank bottom	Yes - If soils are impacted Not necessary if soils are not impacted	Groundwater Probes - upgradient and downgradient	1	Low
Multiple UST's	Products Stored	Soils/sediments near fill port	Soil Probes	2 per tank or tank cluster	into waterable or 10 ft below tank bottom	Yes - If soils are impacted Not necessary if soils are not	Groundwater Probes - upgradient and downgradient	1	Medium
Former Drum Storage Area	Products Stored	Surface soils, stained	Soil Probes	1 per ten drums stored or 1 per 25 acres	3 depths within 1 ft bgs, 5 ft bgs, and waterable	Yes - if soils are impacted	Groundwater Probes	1.2	Medium
Area of Suspect Fill Material	Various	Surface soils/waste piles	Soil Probes	1 per 25 acre	5 feet into native or natural material including surface	Yes - If waterable is within fill or within 20 feet of the bottom of fill	Groundwater probes for small sites; wells for large sites	3	Medium depending on size of area
Drywells/Leachpools	Products Used on Site	Bottom sediments	Soil Probes	1 per suspect location	Pool bottom, five ft below bottom & waterable	Yes	Groundwater probe adjacent to pool/drywell		Low
Former Drycleaners	VOC's	Surface soils, stained	Soil Probes or borings	As above per suspect location	As above per condition	Yes	Groundwater probes		Medium to High depending on site conditions
Former Gasoline Stations	VOC's, SVOC's, metals	Surface soils, stained	Soil Probes	As above per suspect location	As above per condition	Yes - If soils are impacted	Groundwater Probes - upgradient and downgradient	1, 2, 4	Medium to High depending on site conditions
Junk Yard/Automobile Salvage	VOC's, SVOC's, metals	Surface soils, stained	Soil Probes	1 per suspect location, areas of stained soils	surface soils, proposed excavation depths	Not necessary if soils are not impacted Yes - If soils are impacted	Groundwater Probes - upgradient and downgradient	4	Medium depending on size of area
Metal Plating/Finishing	Metals, cyanide, VOC's, SVOC's	Surface soils, stained	Soil Probes/borings	1 per suspect location	surface soils, proposed excavation depths, waterable	Not necessary if soils are not impacted Yes	Minimum of one upgradient and two downgradient wells	4	High
Small Industrial Sites (1 to 2 acres)	Various - Products Used	Surface soils, stained	Soil Probes/borings	1 per suspect location	surface soils, proposed excavation depths, waterable	Yes	additional wells at potential One upgradient and two downgradient wells		High
Large Industrial Sites (2+ acres)	Various - Products Used	Surface soils, stained	Soil Probes & borings	1 per suspect location	surface soils, proposed excavation depths, waterable	Yes	Minimum of one upgradient and two downgradient wells additional wells at potential source areas; recommended	4	Very High

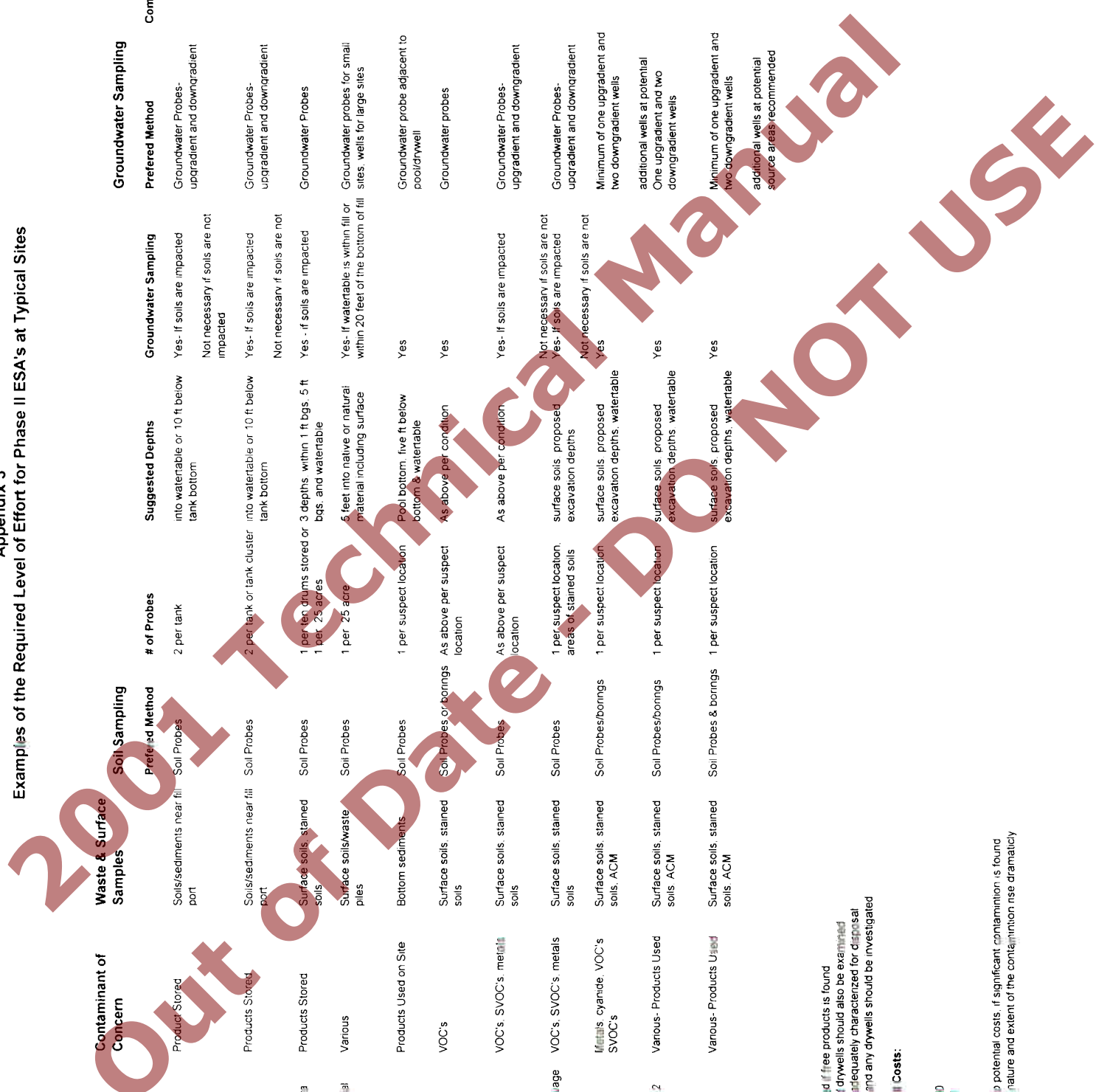
Comments:

- Monitoring Wells needed if free products is found
- Nearby catchbasins and drywells should also be examined
- Fill materials should be adequately characterized for disposal
- Fuel oil, waste oil tanks and any drywells should be investigated

Key to Estimated Phase II Costs:

Low - \$1,000 to \$5,000
 Medium - \$5,000 to \$10,000
 High - \$10,000 to \$50,000
 Very High - \$50,000 plus

Note: This is only a guideline potential costs; if significant contamination is found the costs to determine the nature and extent of the contamination use dramatically



HAZARDOUS MATERIALS APPENDIX 4

Documents Describing New York State and Federal Analytical Methodology

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Appendix 4

Documents Describing New York State and Federal Analytical Methodology

The NYSDEC Analytical Services Protocol (ASP) was last updated in June 2000. The reports documenting the latest version of ASP can be obtained from NYSDEC Bureau of Watershed Assessment and Research within the Division of Water. (518) 457-7470

The analytical methods for solid matrices are published in US EPA SW-846: Test Methods for Evaluating Solid Waste: Physical/Chemical Methods, 3rd edition, 4 volumes. Information for obtaining official printed copy of SW-846 Manual, to obtain CD-ROM, to view the manual and its Draft IVA & IVB Update will be available at URL: <http://www.epa.gov/SW-846/sw846a.htm>.

The wastewater and drinking water analytical methods are provided by the US EPA Office of Water: EPA Methods and Guidelines for Analysis of Water, on CD-ROM, Version 2. General information: <http://www.epa.gov/safewater/methods/cdrom.html>. Ordering information: NTIS, 1-703-605-6000 or e-mail at order@ntis.fedworld.gov by order # PB99-500209INQ.

Guidance Documents for the Preparation of a Quality Assurance Project Plan (QAPP)

Guidance is available at <http://www.epa.gov/epahome/index/sources.htm> and include:

- Quality Assurance/Quality Control Guidance for Removal Activities
- Validation Guidelines
- Compendium of QAPP Guidance, 11998. Region 1 EPA New England
- QA/QC for 301(h) Monitoring Programs

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION WEB PAGE

The recent update of NYSDEC TAGM 4046 can be found at the following web page:
<http://www.dec.state.us/website/der/tagms/prtg4046.html>

HAZARDOUS MATERIALS APPENDIX 5

Chapter 24 of Title 15 of the Rules of the City of New York

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Department of Environmental Protection
Notice of Promulgation of a New Chapter 24 to Title 15 of the Rules of the City of New York
Governing Placement and Removal of an (E) Designation on a tax lot
in connection with a zoning map amendment to designate on the New York City Zoning Map
the presence of contamination or potential contamination of the tax lot
by hazardous materials and/or hazardous waste.

NOTICE OF PROMULGATION OF A NEW CHAPTER TO THE NEW YORK CITY
DEPARTMENT OF ENVIRONMENTAL PROTECTION'S RULES.

PLEASE TAKE NOTICE that pursuant to the authority invested in the Commissioner of the Department of Environmental Protection by section 1403 of the Charter of the City of New York and section 11-15 of the Zoning Resolution of the City of New York that the Department of Environmental Protection hereby promulgates a new Chapter 24 to Title 15 of the Rules of the City of New York to govern the placement and removal of an (E) designation on a tax lot in connection with a zoning map amendment to designate on the Zoning Map of the City of New York the presence of contamination or potential contamination of the tax lot by hazardous materials and/or hazardous waste.

PLEASE BE ADVISED that the rule was previously noted in the May 23, 2001 edition of the City Record and a public hearing was held on June 22, 2001.

PLEASE BE FURTHER ADVISED that the rule has been amended to reflect comments received by the Department in writing. No comments were delivered orally at the public hearing.

PLEASE BE FURTHER ADVISED that the proposed rule was not listed in the Department of Environmental Protection's FY 2001 Regulatory Agenda because this rule was not anticipated at the time the agenda was published.

Please note that all of the text of the proposed Chapter 24 of Title 15 of the Rules of the City of New York is underlined because all of the language in the proposed Chapter 24 is new.

Chapter 24 of Title 15 of the Rules of the City of New York is repealed and a new Chapter 24 is added to read as follows:

§24-01 Authority.

These rules are promulgated pursuant to section 1403 of the Charter of the City of New York and in accordance with § 11-15(c), the Zoning Resolution of the City of New York.

§24-02 Applicability.

These rules shall apply in connection with the environmental review pursuant to City Environmental Quality Review (CEQR) of any Zoning Map Amendment subject to review and approval pursuant to section 197-c and 197-d of the New York City Charter where one or more tax lots in the area subject to the Zoning Map Amendment and not under the control or ownership of the person seeking such Zoning Map Amendment, have been identified by the Lead Agency as likely to be developed as a direct consequence of the action. These rules shall not apply to the environmental review by the City of a Zoning Map Amendment as it affects property under the control or ownership of such person, which shall be conducted in accordance with CEQR requirements governing the review of potential hazardous material contamination or noise or air quality impacts for such property.

§24-03 Definitions.

The following definitions shall apply to this rule, §24-01 *et seq.*, unless the text specifically indicates otherwise.

CEQR. “CEQR” shall mean the City Environmental Quality Review, Chapter 5 of Title 62 of the Rules of the City of New York.

CEQR Technical Manual. “CEQR Technical Manual” shall mean the City Environmental Quality Review Technical Manual issued by OEC in December 1993 together with any updates, supplements and revisions thereto.

City. “City” shall mean the City of New York.

Contamination. “Contamination,” “Contaminated,” or “to Contaminate” shall mean the effect(s) on a tax lot(s) from hazardous materials, hazardous substances, hazardous wastes and/or petroleum.

Day. “Day” shall mean a business day.

DCP. “DCP” shall mean the New York City Department of City Planning.

DEC. “DEC” shall mean the New York State Department of Environmental Conservation.

Department. “Department” shall mean the New York City Department of Environmental Protection.

Development. “Development”, or “Develop” shall mean a change of use and/or any work on a tax lot(s) that involves soil disturbance, including, but not limited to demolition, grading, or excavation related to the construction, enlargement, and/or extension of a new or existing structure(s) on a tax lot(s).

Development Site. “Development Site” shall mean a tax lot(s) located within the area of a proposed Zoning Map Amendment which is not under the control or ownership of the applicant for such Zoning Map Amendment and which the Lead Agency has identified pursuant to CEQR as likely to be developed as a direct consequence of the Zoning Map Amendment.

DOB. “DOB” shall mean the New York City Department of Buildings.

(E) Designation. “(E) Designation” shall mean the designation of an “E” on the Zoning Map pursuant to §11-15 of the Zoning Resolution of the City of New York.

EPA. “EPA” shall mean the United States Environmental Protection Agency.

Hazardous Material. “Hazardous Material” shall mean any material, substance, chemical, element, compound, mixture, solution, product, solid, gas, liquid, waste, byproduct, pollutant, or contaminant which when released into the environment may present a substantial danger to the public health or welfare or the environment, including, but not limited to those classified or regulated as “hazardous” or “toxic” pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C.A. §9601 (1995) *et seq.*, the Resource Conservation and Recovery Act (RCRA) 42 U.S.C.A. §6901 (1995) *et seq.*, the Clean Water Act (CWA), 33 U.S.C.A. §1251 (1986) *et seq.*, the Clean Air Act (CAA) 42 U.S.C.A. §7401 (1995) *et seq.*, Toxic Substances Control Act (TSCA), 15 U.S.C.A. §2601 (1998) *et seq.*, Transportation of Hazardous Materials Act, 49 U.S.C.A. §5101 (1997) *et seq.*, the Hazardous Substances Emergency Response Regulations, 15 RCNY Chap. 11, and/or the List of Hazardous Substances, 6 NYCRR Part 597.

Hazardous Waste. “Hazardous Waste” shall mean any waste, solid waste or combination of waste and solid waste listed or regulated as a hazardous waste or characteristic hazardous waste pursuant to RCRA, 42 U.S.C.A. §6901 (1995), *et seq.* and/or Identification and Listing of Hazardous Wastes, 6 NYCRR Part 371, *et seq.*

Lead Agency. “Lead Agency” shall mean the agency responsible under CEQR for the conduct of environmental review in connection with a Zoning Map Amendment.

Notice of Satisfaction. “Notice of Satisfaction” shall mean a written notice issued by the Department pursuant to §24-07 of this rule documenting completion of all applicable (E) Designation requirements under this rule.

OEC. “OEC” shall mean the New York City Mayor’s Office of Environmental Coordination.

Owner. “Owner” shall mean the person, including his or her successors or assigns, who is the recorded title holder of a tax lot(s).

Parties in Interest. “Parties-in-Interest” shall mean any person with an enforceable property interest in a tax lot(s).

PE Completion Confirmation. “PE Completion Confirmation” shall mean a written notice of completion of a Department approved remediation plan from a Professional Engineer, in a form acceptable to the Department.

Person. “Person” shall mean any individual, trust, firm, corporation, joint stock company, association, partnership, consortium, joint venture, commercial entity or governmental entity.

Petroleum. “Petroleum” shall mean oil or petroleum of any kind and in any form, including, but not limited to oil, petroleum, fuel oil, oil sludge, oil refuse, oil mixed with other waste, crude oil, gasoline and kerosene.

Project Site. “Project Site” shall mean a tax lot(s) that is under the control or ownership of the applicant for the removal of an (E) Designation from the Zoning Map and is subject to proposed development by such applicant.

Restrictive Declaration. “Restrictive Declaration” shall mean an instrument recorded against a tax lot(s) in the county office of land records and executed by all Parties-in-

Interest to such tax lot(s), setting forth restrictions and enforcement provisions with respect to implementation of a Remediation Plan pursuant to §24-07 of these rules.

Tax Lot. "Tax Lot" shall mean a tax lot identified by parcel number on the official tax maps of the City of New York.

Zoning Map. "Zoning Map" shall have the meaning set forth in §12-10 of the Zoning Resolution of the City of New York.

Zoning Map Amendment. "Zoning Map Amendment" shall mean a proposed amendment to the Zoning Map subject to review and approval pursuant to §§ 197-c and 197-d of the New York City Charter.

§24-04 Preliminary Screening.

- a. The Lead Agency may prepare or may cause to be prepared a preliminary screening assessment consisting of visual or historical documentation of any of the following past or current uses at a Development Site, and/or other tax lot(s) that might have affected or be affecting a Development Site.
 - (1) Incinerators;
 - (2) Underground and/or above ground storage tanks;
 - (3) Active solid waste landfills;
 - (4) Permitted hazardous waste management facilities;
 - (5) Inactive hazardous waste facilities;
 - (6) Suspected hazardous waste sites;
 - (7) Hazardous substance spill locations;
 - (8) Areas known to contain fill material;
 - (9) Petroleum spill locations;
 - (10) Any past use identified in Appendix A
- b. Based on the visual or historical documentation prepared under subsection (a), the Lead Agency may determine that an (E) Designation should be placed on the Zoning Map for the tax lot(s) identified under subsection (a) in connection with adoption of the Zoning Map Amendment. In making such determination, the Lead Agency may consult with the Department.
- c. A Phase I Environmental Site Assessment pursuant to §24-05 shall not be required prior to placement of an (E) Designation on the Zoning Map pursuant to this Section.

§24-05 Phase I Environmental Site Assessment.

- a. For any Development Site that has not received an (E) Designation following review of visual or historical documentation pursuant to §24-04, the Lead Agency shall conduct, or shall cause to be conducted, a Phase I Environmental Site Assessment (Phase I ESA).
- b. The Phase I ESA may be limited to:
 - (1) Historical land use review;
 - (2) Regulatory agency list review; and
 - (3) Site and surrounding area reconnaissance visit.
- c. A report entitled "Phase I ESA Report" and any supplements thereto, summarizing the Phase I ESA shall be prepared by or for the Lead Agency and a

- copy of such report shall be provided to the Department. The Phase I ESA Report shall include any information discovered in the Phase I ESA. The Department may provide the Lead Agency with any additional information it deems relevant together with any comments regarding the contents of the Phase I ESA and any supplements thereto within twenty (20) days of receipt of the Phase I ESA Report.
- d. The Lead Agency shall respond to the Department's comments and any additional information either by placing or causing DCP to place an (E) on the Zoning Map for the relevant tax lot(s) or by issuing a Final Phase I ESA Report that addresses any such comments and/or additional information. The Lead Agency shall inform the Department of such determination.

§24-06 Phase II Environmental Site Assessment.

- a. Before an applicant may seek any building permit for development from DOB with respect to a tax lot(s) subject to an (E) Designation, the applicant shall:
- (1) Complete a Phase II Environmental Site Assessment (Phase II ESA) in accordance with this section to determine the level and extent of contamination at the proposed Project Site; or
 - (2) Submit to the Department historical, regulatory or other evidence that a Phase II ESA is not required for the proposed Project Site, which the Department shall review in accordance with §24-09.
- b. The applicant shall prepare and submit to the Department a Work Plan to undertake the Phase II ESA, prepared in accordance with the CEQR Technical Manual. Such Work Plan shall also include:
- (1) A detailed description of the proposed Project Site;
 - (2) A detailed description of the proposed development at the Project Site;
 - (3) A description of the projected timeframe for development at the Project Site;
 - (4) A description of the proposed use of the Project Site;
 - (5) Copies of reports of any previous investigations related to the presence or suspected presence of contamination on the Project Site.
- c. Where applicable and at a minimum, the following procedures or requirements shall be implemented in the Phase II ESA for all sampling techniques and methods:
- (1) All samples shall be analyzed by a laboratory accredited by the New York State Department of Health Environmental Laboratory Approval Program (ELAP);
 - (2) Samples from sites on the DEC Registry of Inactive Hazardous Waste Sites shall use a laboratory certified under EPA's Contract Laboratory Program or DEC's Analytical Services Program (ASP);
 - (3) EPA SW-846, 40 C.F.R. 261, which delineates the EPA Target Compound List/Target Analyte List, or an EPA approved successor method shall be used;
 - (4) Toxicity Characteristic Leaching Procedure, Method 1311, as delineated in EPA SW-846, 40 C.F.R. 261, or an EPA approved successor method shall be used.

- d. The Department will review the Work Plan in accordance with §24-09.
- e. The applicant shall undertake the Work Plan as approved by the Department.
- f. Upon completion of the Phase II ESA, a report entitled "Phase II ESA Report" summarizing the Phase II ESA shall be submitted to the Department. The Phase II ESA Report shall include:
- (1) A summary of the findings of all the studies and/or investigations performed;
 - (2) A description of all assessment reconnaissance techniques in accordance with applicable Federal and State laws and Department guidelines;
 - (3) Sampling Results, which shall be presented in summary tables and compared to all relevant State and Federal guidance values, standards and regulations;
 - (4) Maps of the tax lots (1"=50') including but not limited to: USGS quadrangle map, name of quad and North arrow, on which the following is clearly indicated:
 - (i) All physical site characteristics with location of all soil borings, soil gas points, groundwater monitoring wells, USTs, vent lines, fill lines, and other pertinent information;
 - (ii) Where relevant based on the conditions of the Project Site, a depiction of groundwater elevation and flow direction;
 - (iii) Where relevant based on the conditions of the Project Site, a soil-gas concentration map with contours; and
 - (iv) All identified sources of releases and the extent and concentrations of contaminant plumes in all media.
 - (5) Appendices, which shall include:
 - (i) All raw data,
 - (ii) Laboratory methods,
 - (iii) Chain-of-custody forms,
 - (iv) QA/QC plan,
 - (v) Field notes,
 - (vi) Soil boring/monitoring well logs,
 - (vii) As-built well construction details,
 - (viii) Modeling programs used,
 - (ix) Calculations and formulas, and
 - (x) Physical/chemical properties of chemical compounds of concern.
 - (6) An assessment, based on findings of the Phase II ESA, of whether or not a Remediation Plan is required for the Project Site.
- g. The applicant may submit a Remediation Plan with the Phase II ESA Report.
- h. The Department will review the Phase II ESA Report in accordance with §24-09.
- i. Upon completion of its review of the Phase II ESA Report, the Department will determine whether a Remediation Plan is required.
- (1) If the Department determines that a Remediation Plan is not required, the Department will issue a Notice of Satisfaction letter to DOB;
 - (2) If a Remediation Plan has been submitted, the Department will review it in accordance with §§ 24-07 and 24-09;

- (3) If the Department determines that a Remediation Plan is required and a Remediation Plan has not already been submitted by the applicant, the applicant shall submit a Remediation Plan for review by the Department in accordance with §§ 24-07 and 24-09.

§24-07 Remediation Plan.

- a. Preparation of the Remediation Plan.
 - (1) Before an applicant may seek any building permits from DOB with respect to a tax lot(s) subject to an (E) Designation, where the Department has determined that Remediation Plan is required pursuant to §24-06, the applicant shall prepare a Remediation Plan. The Remediation Plan shall address all aspects of contamination, actual and/or potential, identified in the Phase II ESA Report, including, but not limited to:
 - (i) Elevated levels of contaminants pursuant to applicable law and/or DEC guidelines;
 - (ii) The sources of contamination;
 - (iii) The exposure pathways for contamination;
 - (iv) Environmental exposure to contamination;
 - (v) Human health exposure to contamination;
 - (vi) Proposed cleanup criteria;
 - (vii) Health and Safety of construction workers on the tax lot(s); and
 - (viii) Health and Safety of the public and future users of the tax lot(s) within the constraints of technical feasibility, remedial technology, and monitoring requirements.
 - (2) In preparing a Remediation Plan, the applicant shall consider all applicable remediation techniques, including, but not limited to, those set forth in the CEQR Technical Manual. The Remediation Plan shall include a list of all techniques considered and an explanation for the acceptance or rejection of those techniques.
 - (3) The Department shall review the Remediation Plan in accordance with §24-09.
 - (4) In conjunction with its review of the Remediation Plan, the Department may require execution of a Restrictive Declaration by the owner, or the owner's designee approved by the Department, for the tax lot(s) subject to the (E) Designation.
 - (i) The Restrictive Declaration shall bind the owner, or the owner's designee approved by the Department, to performance of the Remediation Plan in accordance with its terms, and shall include restrictions upon development of the subject tax lot(s);
 - (ii) In accordance with the Remediation Plan, the Restrictive Declaration may require monitoring or other measures that extend beyond the issuance of a Temporary Certificate of Occupancy or a Certificate of Occupancy for the Project Site;
 - (iii) The Restrictive Declaration shall include a procedure for Department review of satisfaction of any requirements contained in

the Restrictive Declaration pursuant to this subsection and release therefrom; and

- (iv) The Restrictive Declaration shall be executed by all Parties-in-Interest to such tax lot(s) and shall be recorded against such tax lot(s) in the applicable county office of land records.

b. Implementation of the Remediation Plan.

- (1) Prior to implementation of the Remediation Plan, the applicant shall:
 - (i) Provide the Department with ten (10) days written notice of such planned implementation; and
 - (ii) A copy of the recorded Restrictive Declaration, if such was required by the Department.
- (2) After the Department has reviewed and approved the Remediation Plan in accordance with §24-09 and a Restrictive Declaration, if required by the Department, has been completed in accordance with paragraph (4) of subsection a. of this section, the Department may recommend to DOB issuance of such building permit or permits as are necessary to undertake the approved Remediation. In no event, however, shall the applicant seek or accept from DOB a Temporary Certificate of Occupancy or a Certificate of Occupancy until the Department issues a Notice of Satisfaction pursuant to paragraph (2) of subsection (c) of this section.
- (3) If implementation of a Department - approved Remediation Plan does not commence within one year of the date of the Department's approval thereof, such approval shall expire.
 - (i) The applicant may request in writing to extend a Department approval for a Remediation Plan not less than thirty (30) days prior to the expiration of such Department approval.
 - (a) Any written request for an extension shall explain the circumstances for the delay in implementation of the Remediation Plan and document that the Remediation Plan remains valid.
 - (b) The Department shall review a written request for an extension by the applicant in accordance with §24-09.
 - (ii) If an approval for a Remediation Plan expires, the Applicant shall:
 - (a) Submit a new Remediation Plan for Department review in accordance with §24-09; or
 - (b) Submit a written request for a renewed approval of the expired Remediation Plan.
 - (1) Any written request for a renewed approval shall explain the circumstances for the delay in implementation of the Remediation Plan and document that the Remediation Plan remains valid.
 - (2) The Department will review a written request for an extension by the Applicant in accordance with §24-09.

- (4) The Department shall have the right to inspect any tax lot(s) subject to remediation pursuant to this rule with respect to the remediation, consistent with applicable health and safety regulations, and the applicant shall allow any such inspection by the Department.
- c. Completion of the Remediation Plan.
 - (1) Upon the completion of the Department-approved Remediation Plan or written confirmation of completion of a substantially equivalent remediation from New York State, the applicant shall deliver to the Department, a PE Completion Confirmation in a form satisfactory to the Department.
 - (i) Requirements for monitoring or other measures in the Remediation Plan that extend beyond the issuance of a Temporary Certificate of Occupancy or a Certificate of Occupancy for the Project Site and are included in a Restrictive Declaration in accordance with paragraph (4) of subsection a. of this section, shall not preclude the issuance of a PE Completion Confirmation.
 - (2) Upon the Department's review and approval of the PE Completion Confirmation, the Department shall issue a Notice of Satisfaction to the applicant, OEC, DOB and DCP within ten (10) days.
 - (i) The Notice of Satisfaction shall specify that the environmental requirements relating to the (E) Designation have been satisfied and if applicable, a summary of any requirements for monitoring or other measures in the Remediation Plan that extend beyond the issuance of a Temporary Certificate of Occupancy or a Certificate of Occupancy for the Project Site that have been included in a Restrictive Declaration in accordance with paragraph (4) of subsection a. of this section.

§24-08 Satisfaction of (E) Designation Requirements.

- a. Issuance of the Notice of Satisfaction by the Department constitutes the Department's report specifying that the environmental requirements relating to the (E) Designation have been satisfied.
- b. The owner of any tax lot(s) subject to an (E) Designation may file a copy of a Notice of Satisfaction with the Department of City Planning. Upon receipt of such Notice of Satisfaction, DCP shall indicate such satisfaction as to the affected tax lot(s) on the listing of (E) Designations appended to the Zoning Map.
- c. When DCP has received Notices of Satisfaction for all tax lot(s) specified in the CEQR declaration with respect to the placement of an (E) Designation on the Zoning Map, it shall administratively remove such (E) Designation from the Zoning Map.
- d. DCP shall notify DOB, OEC and DEP in writing of the satisfaction of (E) Designation requirements for a tax lot(s) or of the removal of an (E) Designation from a Zoning Map.

§24-09 Department Review and Approval Procedure.

- a. At the written request of the applicant, the Department will conduct a pre-submission conference with the applicant regarding the required contents of any submission required pursuant to §§ 24-06 and 24-07 of this rule and the schedule for proceeding with such submission.
- b. Upon initial receipt of a submission required pursuant to this rule, the Department will review such submission and provide written comments within thirty (30) days of receipt of such initial submission.
- c. If the Department requests additional information or a revised submission, the applicant shall resubmit the submission for review.
 - (1) Revised submissions will be reviewed by the Department as expeditiously as possible;
 - (2) Upon receipt of all information requested, the Department shall issue comments in writing with respect to the submission within thirty (30) days.
- d. If the applicant disagrees with the Department's comments, the applicant shall have thirty (30) days, or such time as agreed upon by the Department and the applicant, to respond.
- e. Upon receipt and review of all required submissions, the Department will issue its determination either approving or disapproving the submission within thirty (30) days.
- f. If at any point in its review of a submission by the applicant, the Department requires more than the specified time period for the review, the Department will notify the applicant in writing of the necessity of such additional time.
- g. If at any time the Department fails to provide written comments within a time period specified under this section, or such time as agreed upon by the Department and the applicant, and fails to provide written notice of the necessity of additional time, the applicant may submit a written notification to the Department requesting that any comments be provided within thirty (30) days.

§24-10 Notification.

- a. Discovery of a petroleum spill or discharge on a tax lot(s) by the Department and/or the applicant must be reported in accordance with applicable Federal, State or local laws.
- b. Discovery of evidence of "reportable quantities" of hazardous materials or hazardous wastes by the Department and/or the applicant on a tax lot(s) that pose a potential or actual significant threat to public health or the environment under Federal, State or local guidelines, must be reported in accordance with applicable Federal, State or local laws.

§24-11 Lead Agency Records/Agency Consultation.

- a. The Lead Agency shall maintain a single file containing copies of all Phase I ESA Reports issued pursuant to §24-05 of this rule, together with the relevant Environmental Assessment Statement, Environmental Impact Statement, or other CEQR determinations made in connection therewith.

- b. The Department, DCP, and OEC shall meet and confer on a periodic basis concerning the implementation of this rule.

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APPENDIX A

List of Facilities, Activities or Conditions Requiring Assessment

1. A facility, on or adjacent to a tax lot, which generates (including small quantity generators), stores, treats or disposes of hazardous waste, as defined by RCRA and regulated by EPA and/or DEC.
2. A facility, on or adjacent to a tax lot, which manufactures, produces, prepares, compounds, processes uses, repackages or disposes of hazardous chemicals, as defined under New York City's Community Right-to-Know Law, N.Y.C. Admin. Code tit. 24, ch. 7 (1992).
3. A facility, on or adjacent to a tax lot, which is included on the following list:
 - Adhesives and sealants manufacture
 - Advertising displays manufacture
 - Agricultural machinery manufacture (including repairs)
 - Aluminum manufacture or aluminum products manufacture
 - Aircraft manufacture (including parts)
 - Airports Appliance (electrical) manufacture
 - Art goods manufacturer
 - Asphalt or asphalt products manufacture
 - Athletic equipment manufacture
 - Automobile and other laundries
 - Automobile manufacture
 - Automobile rental establishments
 - Automobile wrecking establishments
 - Automobile service stations
 - Battery manufacture
 - Bicycle manufacture
 - Blacksmith shops
 - Boat repair
 - Boat fuel sales
 - Boat storage
 - Business machine manufacture
 - Camera manufacture
 - Canvas or canvas products manufacture
 - Carpet cleaning establishments
 - Carpet manufacture
 - Cement manufacture
 - Ceramic products manufacture
 - Charcoal manufacture
 - Chemical compounding or packaging
 - Chemical manufacture
 - Cleaning or cleaning and dyeing establishments
 - Clock manufacture
 - Clothing manufacture
 - Coal products manufacture

- Coal sales or storage
- Coke products manufacture
- Coil coating
- College, university, trade school laboratories
- Construction machinery manufacture
- Copper forming or copper products manufacture
- Cosmetics or toiletries manufacture
- Dental instruments manufacture
- Dental laboratories
- Disinfectant manufacture
- Drafting instruments manufacture
- Dry cleaning establishments
- Dumps
- Electric power or steam generating plants
- Electric power substations
- Electric and electronic components manufacture
- Electric appliance manufacture
- Electric supplies manufacture
- Electroplating or stereotyping
- Engraving or photo-engraving
- Exterminators
- Explosives manufacture
- Felt products manufacture
- Felt products bulk processing, washing or curing
- Fertilizer manufacture
- Filling stations
- Film manufacture
- Fire stations
- Foundries ferrous or non-ferrous
- Fuel sales
- Fungicides manufacture
- Fur tanning, curing, finishing or dyeing
- Furniture manufacture
- Garbage incineration, storage or reduction
- Gas manufacture, storage
- Gasoline service stations
- Generating plants, electric or steam
- Glass manufacture
- Glue manufacture
- Golf courses
- Graphite or graphite products manufacture
- Gum and wood chemicals manufacture or processing
- Hair products manufacture
- Hardware manufacture
- Heliports

- Incineration or garbage reduction
- Ink or Ink ribbon manufacture
- Insecticides manufacture
- Inorganic chemicals manufacture
- Iron and steel manufacture
- Jewelry manufacture
- Junk yards
- Laboratories, medical, dental, research, experimental
- Leather tanning, curing, finishing or dyeing
- Linoleum manufacture
- Luggage manufacture
- Lumber processing
- Machine shops including tool, die, or pattern making
- Machine tools manufacture
- Machinery manufacture or repair
- Mechanical products manufacture
- Medical appliance manufacture
- Medical instruments manufacture
- Medical laboratories
- Metals manufacture including alloys or foil
- Metal casting or foundry products
- Metal finishing, plating, grinding, polishing, cleaning, rust-proofing, heat treatment
- Metal ores reduction or refining
- Metal product treatment or processing
- Metal reduction, refining, smelting or alloying
- Metal treatment or processing
- Mining machinery manufacture
- Mirror silvering shops
- Motorcycle manufacturer
- Motor freight stations
- Musical instrument manufacture
- Newspaper publishing
- Non-ferrous metals manufacture
- Office equipment or machinery repair shops
- Oil, public utility stations for metering or regulating oil sales
- Oil storage
- Optical equipment manufacture
- Organic chemicals manufacture
- Orthopedic appliance manufacture
- Ore mining
- Paint and ink manufacture
- Paper and pulp mills Paper products manufacture
- Pesticides manufacture
- Petroleum or petroleum products refining
- Petroleum or petroleum products storage and handling

- Pharmaceutical products manufacture or preparation
- Photographic equipment and supplies manufacture
- Plastics and synthetic products manufacture and processing
- Plastics raw manufacture
- Plumbing equipment manufacture
- Porcelain enameling
- Precision instruments manufacture
- Printing and publishing
- Pumping stations, sewage
- Radioactive waste disposal services
- Railroad equipment manufacture
- Railroad rights-of-ways, substations
- Railroad freight terminals, yards or appurtenances
- Refrigerating plants
- Rubber processing of manufacture
- Rubber products manufacture
- Sewage disposal plants, pumping stations
- Ship or boat building repair yards
- Shipping waterfront
- Shoes manufacture
- Sign painting shops
- Silver-plating shops
- Silverware manufacture, plate or sterling
- Slag piles
- Soap and detergent manufacture
- Soldering shops
- Solvent extraction
- Steam electric power plants
- Steel products manufacture
- Tar products manufacture
- Textiles bleaching, products manufacture or dyeing
- Textile mills
- Thermometer manufacture or assembly
- Tile manufacture
- Timber products manufacture
- Tool or hardware manufacture
- Toys manufacture
- Trailer manufacture
- Transit substations
- Truck manufacture
- Trucking terminal or motor freight stations
- Turpentine manufacture
- Varnish manufacture
- Vehicles manufacture
- Venetian blind manufacture

- Welding shops
- Wood distillation

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WATERFRONT REVITALIZATION PROGRAM APPENDIX

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WATERFRONT REVITALIZATION PROGRAM APPENDIX 1

Waterfront Revitalization Program Policies

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WATERFRONT REVITALIZATION PROGRAM APPENDIX 1

Waterfront Revitalization Program Policies

Following is a complete list of the 56 policies of the New York City Waterfront Revitalization Program. The 44 numbered policies are the State policies of the Coastal Management Program; the 12 lettered policies are specific to New York City's program. Following many of the policies is a discussion from the State Coastal Management Program. This discussion ranges from general policy directives to guidelines or practical instruction.

POLICY 1: *Restore, revitalize, and redevelop deteriorated and underutilized waterfront areas for commercial, industrial, cultural, recreational, and other compatible uses.*

The New York City Comprehensive Waterfront Plan provides guidance in encouraging redevelopment in appropriate areas; all proposed actions may consider this plan in conjunction with other waterfront policies and plans.

In accordance with the WRP and New York State Coastal Management Program, when an action is proposed to take place in an urban waterfront area, the following guidelines may be helpful in identifying whether or not there will be a consistency issue:

1. Priority should be given to uses that are dependent on a location adjacent to the water.
2. The action should enhance existing and anticipated uses. For example, a new highway should be designed and constructed so as to serve the potential access needs for desirable industrial development.
3. The action should serve as a catalyst to private investment in the area.
4. The action should improve the deteriorated condition of a site and, at a minimum, must not cause further deterioration. For example, a building could not be abandoned without protecting it against vandalism and/or structural decline.
5. The action must lead to development that is compatible with the character of the area, with consideration given to scale, architectural style, density, and intensity of use.
6. The action should have the potential to improve the existing economic base of the community, and, at a minimum, must not jeopardize this base. For example, waterfront development meant to serve consumer needs would be inappropriate in an area where no increased consumer demands were expected and existing development was already meeting demand.
7. The action should improve adjacent and upland views of the water, and, at a minimum, must not affect these views in an insensitive manner.
8. The action should have the potential to improve the potential for multiple uses of the site.

NEW YORK CITY POLICY A: *Improve urban shorelines by maintaining, removing, or recycling waterfront structures (piers, docks, wharves etc.) in accordance with waterfront development policies and plans. Identify alternative uses for underutilized waterfront structures.*

POLICY 2: *Facilitate the siting of water-dependent uses and facilities on or adjacent to coastal waters.*

Municipally owned waterfront sites should be used for water-dependent uses, and/or should be developed to promote public access, where safety and security concerns can be addressed. Non-water-dependent uses should only be considered where it can be demonstrated that no feasible non-waterfront site exists or where the temporary nature of the facility does not commit the site in the long term.

The following uses and facilities are considered as water-dependent:

1. Uses that depend on the utilization of resources found in coastal waters (for example: fishing, mining of sand and gravel, mariculture activities);
2. Recreational activities that depend on access to coastal waters (for example: swimming, fishing, boating, wildlife viewing);
3. Uses involved in the sea/land transfer of good (for example: docks, loading areas, pipelines, short-term storage facilities);
4. Structures needed for navigational purposes (for example: locks, dams, lighthouses);
5. Flood and erosion protection structures (for example: breakwaters, bulkheads);
6. Facilities needed to store and service boats and ships (for example: marinas, boat repair, boat construction yards);
7. Uses requiring large quantities of water for processing and cooling purposes (for example: hydroelectric power plants, fish processing plants, pumped storage power plants);
8. Uses that rely heavily on the waterborne transportation of raw materials or products that are difficult to transport on land, thereby making it critical that a site near to shipping facilities be obtained (for example: coal export facilities, cement plants, quarries);
9. Uses that operate under such severe time constraints that proximity to shipping facilities becomes critical (for example: firms processing perishable foods);
10. Scientific/education activities that, by their nature, require access to coastal waters (for example: certain meteorological and oceanographic activities); and
11. Support facilities that are necessary for the successful functioning of permitted water-dependent uses (For example: parking lots, snack bars, first aid stations, short-term storage facilities). Though these uses must be near the given water-dependent use they should, as much as possible, be sited inland from the water-dependent use rather than on the shore.

According to the WRP, uses that are enhanced by a waterfront location should be encouraged to be located along the shore, through not at the expense of water-dependent uses. A water-enhanced use is defined as a use that has no critical dependence on obtaining a waterfront location, but profitability of the use and/or the enjoyment level of the users would be increased significantly if the use were adjacent to, or had visual access to the

waterfront. A restaurant that uses good site design to take advantage of a waterfront view, and a golf course that incorporates the coastline into the course design, are two examples of water-enhanced uses.

If there is no immediate demand for a water-dependent use in a given area but a future demand is reasonably foreseeable, temporary non-water-dependent uses should be considered preferable to a non-water-dependent use that involves an irreversible, or nearly irreversible commitment of land. Parking lots, passive recreational facilities, outdoor storage areas, and non-permanent structures are uses that would likely be considered as "temporary" non-water-dependent uses.

In the actual choice of sites where water-dependent uses will be encouraged and facilitated, the following guidelines should be used:

1. Competition for space—competition for space or the potential for it, should be indicated before any given site is promoted for water-dependent uses. The intent is to match water-dependent uses with suitable locations and thereby reduce any conflicts between competing uses that might arise. Not just any site suitable for development should be chosen as a water-dependent use area. The choice of a site should be made with some meaningful impact on the real estate market anticipated. The anticipated impact could either be one of increased protection to existing water-dependent activities or else the encouragement of water-dependent development.
2. In-place facilities and services—most water-dependent uses, if they are to function effectively, will require basic public facilities and services. In selecting appropriate areas for water-dependent use, consideration should be given of the following factors:
 - a. The availability of public sewers, public water lines and adequate power supply;
 - b. Access to the area for trucks and rail, if heavy industry is to be accommodated; and
 - c. Access to public transportation, if a high number of person trips is to be generated.
3. Access to navigational channels—if commercial shipping, commercial fishing, or recreational boating are planned, the locality should consider setting aside a site, within a sheltered harbor, from which access to adequately sized navigation channels would be assured.
4. Compatibility with adjacent uses and the protection of other coastal resources—water-dependent uses should be located so that they enhance, or at least do not detract from, the surrounding community. Consideration should also be given to such factors as the protection of nearby residential areas from odors, noise, and traffic. Affirmative approaches should also be employed so that water-dependent uses and adjacent uses can serve to complement one another. For example, a recreation-oriented water-dependent use area could be sited in an area already oriented towards tourism. Clearly, a marina, fishing pier or swimming area would enhance, and in turn be enhanced by, nearby restaurants, motels and other non-water-oriented tourist activities. Water-dependent uses must also be sited so as to avoid adverse impacts on the significant coastal resources.
5. Preference to underutilized sites—the promotion of water-dependent uses should serve to foster development as a result of the capital programming, permit expediting, and other State and local actions that will be used to promote the site. Nowhere is such a stimulus needed more than in those portions of the State's waterfront areas that are currently underutilized.
6. Providing for expansion—a primary objective of the policy is to create a process by which water-dependent uses can be accommodated well into the future. State agencies and localities should therefore give consideration to long-term space needs and, where practicable, accommodate future demand by identifying more land that is needed in the near future.

NEW YORK CITY POLICY B: *Improve channels as necessary to maintain and stimulate economic development.*

POLICY 3: *Promote the development and use of the State's major ports as centers of commerce and industry, emphasizing the siting, within port areas, of land use and development which is necessary to, or in support of, the waterborne transportation of cargo and people. The State's major ports are the ports of Albany, Buffalo, New York, Ogdensburg, and Oswego.*

The following guidelines shall be used in determining consistency:

1. In assessing proposed projects within or abutting a major port, given that all other applicable policies are adhered to, the overriding consideration is the maintenance and enhancement of port activity, i.e., development related to waterborne transportation, which will have precedence over other, non-port-related activities.
2. Dredging to maintain the economic viability of major ports will be regarded as an action of regional or Statewide public benefit if: a clear need is shown for maintaining or improving the established alignment, width, and depth of existing channels or for new channels essential to port activity; and it can be demonstrated that environmental impacts would be at acceptable levels according to State regulations governing the activity.
3. Landfill projects in the near-shore areas will be regarded as an acceptable activity within major port areas, provided adverse environmental impacts are acceptable under all applicable environmental regulation and a strong economic justification is demonstrated
4. If non-port related activities are proposed to be located in or near to a major port, these uses shall be sited so as not to interfere with normal port operations.
5. When not already restricted by existing laws or covenants, and when there is no other overriding regional or Statewide public benefit for doing otherwise, surplus public land or facilities within or adjacent to a major port shall be offered for sale, in the first instance, to the appropriate port authority.
6. In the programming of capital projects for port areas, highest priority will be given to projects that promote the development and use of the port.

However, in determining such priorities, consideration must also be given to non-port related interests within or near the ports that have demonstrated critical capital programming needs.

7. No buildings, piers, wharves, or vessels shall be abandoned or otherwise left unused by a public agency or sold without making provisions for their maintenance in sound condition or for their demolition or removal.
8. Proposals for the development of new major ports will be assessed in terms of the anticipated impact on: a) existing New York State major ports; b) existing modes of transportation; and c) the surrounding land uses and overall neighborhood character of the area in which the proposed port is to be located; and other valued coastal resources.
9. Port development shall provide opportunities for public access insofar as these opportunities do not interfere with the day-to-day operations of the port and the port authority and its tenants do not incur unreasonable costs.

POLICY 4: Strengthen the economic base of smaller harbor areas by encouraging the development and enhancement of those activities which have provided such areas with a unique identity.

The following guidelines shall apply:

1. The action shall give priority to those traditional and/or desired uses that are dependent on or enhanced by a location adjacent to the water.
2. The action will enhance or not detract from or adversely affect existing traditional and/or desired anticipated uses.
3. The action shall not be out of character with, nor lead to development that would be out of character with, existing development in terms of the area's scale, intensity of use, and architectural style.
4. The action must not cause a site to deteriorate, e.g., a structure shall not be subject to vandalism and/or structural decline.
5. The action will not adversely affect the existing economic base of the community, e.g., waterfront development designed to promote residential development might be inappropriate in a harbor area where the economy is dependent upon tourism and commercial fishing.
6. The action will not detract from views of the water and smaller harbor area, particularly where the visual quality of the area is an important component of the area's appeal and identity.

POLICY 5: Encourage the location of development in areas where public services and facilities essential to such development are adequate.

This policy is intended to accomplish the following:

- Strengthen existing residential, industrial, and commercial centers;
- Foster an orderly pattern of growth where outward expansion is occurring;
- Increase the productivity of existing public services and moderate the need to provide new public services in outlying areas;
- Preserve open space in sufficient amounts and where desirable; and
- Foster energy conservation by encouraging proximity between home, work, and leisure activities.

The following guidelines shall be used in making a determination as to whether the action is within, contiguous to, or in close proximity to an area of concentrated development where infrastructure and public services are adequate:

1. Cities, built-up suburban towns and villages, and rural villages in the coastal area are generally areas of concentrated development where infrastructure and public services are adequate.
2. Other locations in the coastal area may also be suitable for development, if three or more of the following conditions prevail:

- a. Population density of the area surrounding or adjacent to the proposed site exceeds 1,000 persons per square mile;
 - b. Fewer than 50 percent of the buildable sites (i.e., sites meeting lot area requirements under existing local zoning regulations) within a one-mile radius of the proposed site are vacant;
 - c. Proposed site is served by or is near to public or private sewer and water lines;
 - d. Public transportation service is available within one mile of the proposed site; and
 - e. A significant concentration of commercial and/or industrial activity is within one-half mile of the proposed site.
3. The following points shall be considered in assessing the adequacy of an area's infrastructure and public services:
- a. Streets and highways serving the proposed site can safely accommodate the peak traffic generated by the proposed land development;
 - b. Development's water needs (consumptive and fire fighting) can be met by the existing water supply system;
 - c. Sewage disposal system can accommodate the water generated by the development;
 - d. Energy needs of the proposed land development can be accommodated by existing utility systems;
 - e. Stormwater runoff from the proposed site can be accommodated by on-site and/or off-site facilities; and
 - f. Schools, police and fire protection, and health and social services are adequate to meet the needs of the population expected to live, work, shop, or conduct business in the area as a result of the development.

It is recognized that certain forms of development may and/or should occur at locations that are not within or near areas of concentrated development. Thus, this coastal development policy does not apply to the following types of development projects and activities:

1. Economic activities that depend upon sites at or near locations where natural resources are present, e.g., lumber industry, quarries.
2. Development that by its nature is enhanced by a non-urbanized setting, e.g., a resort complex, campgrounds, second home developments.
3. Development that is designed to be a self-contained activity, e.g., a small college, an academic or religious retreat.
4. Water-dependent uses with site requirements not compatible with this policy or when alternative sites are not available.
5. Development that because of its isolated location and small-scale has little or no potential to generate and/or encourage further land development.
6. Uses and/or activities that because of public safety consideration should be located away from populous areas.
7. Rehabilitation or restoration of existing structures and facilities.

8. Development projects that are essential to the construction and/or operation of the above uses and activities.

POLICY 6: Expedite existing permit procedures in order to facilitate the siting of development activities at suitable locations.

POLICY 7: Significant coastal fish and wildlife habitats will be protected and preserved so as to maintain their viability as habitats.

The range of generic activities most likely to affect significant coastal fish and wildlife habitats include but are not limited to the following:

1. Draining wetlands, ponds: Cause changes in vegetation, or changes in groundwater and surface water hydrology.
2. Filling wetlands, shallow areas of streams, lakes, bays, estuaries: May change physical character of substrate (e.g., sandy to muddy, or smother vegetation, alter surface water hydrology).
3. Grading land: Results in vegetation removal, increased surface runoff, or increased soil erosion and downstream sedimentation.
4. Clear cutting: May cause loss of vegetative cover, increased fluctuations in the amount of surface runoff, or increased streambed scouring, soil erosion, or sediment deposition.
5. Dredging or excavation: May cause change in substrate composition, possible release of contaminants otherwise stored in sediments, removal of aquatic vegetation, or change circulation patterns and sediment transport mechanisms.
6. Dredge spoil disposal: May induce shoaling of littoral areas, or change circulation patterns.
7. Physical alteration of shore areas through channelization or construction of shore structure: May change in volume and rate of flow or increased scouring, sedimentation
8. Introduction, storage or disposal of pollutants such as chemical, petrochemical, solid wastes, nuclear wastes, toxic material, pesticide, sewage effluent, urban and rural runoff, leachate of hazardous and toxic substances stored in landfills: May cause increased mortality or sublethal effects on organisms, alter their reproductive capabilities, or reduce their value as food organisms.

The range of physical, biological and chemical parameters that should be considered include but are not limited to the following:

1. Physical parameters such as: Living space, circulation, flushing rates, tidal amplitude, turbidity, water temperature, depth (loss of littoral zone), morphology, substrate type, vegetation, structure, erosion and sedimentation rates.
2. Biological parameters such as: Community structure, food chain relationships, species diversity, predator/prey relationships, population size, mortality rates, reproductive rates, behavioral patterns, and migratory patterns.
3. Chemical parameters such as: Dissolved oxygen, carbon dioxide, pH, dissolved solids, nutrients, organic salinity, pollutants (heavy metals, toxic and hazardous materials).

Habitat Impairment Test

A habitat impairment test must be applied to any activity that is subject to consistency review under Federal and State laws, or under applicable local laws contained in the approved New York City Waterfront Revitalization Program. If the proposed action is subject to consistency review, then the habitat protection policy applies, whether the proposed action is to occur within or outside the designated area.

The specific habitat impairment test is as follows.

In order to protect and preserve a designated significant coastal fish and wildlife habitat, land and water uses or development shall not be undertaken if such actions would:

- destroy the designated habitat; or
- significantly impair the viability of a designated habitat.

Habitat destruction is defined as the loss of fish or wildlife use through direct physical alteration, disturbance, or pollution of a designated area or through the indirect effects of these actions on a designated area. Habitat destruction may be indicated by changes in vegetation, substrate, or hydrology, or increases in runoff, erosion, sedimentation or pollutants.

Significant impairment is defined as reduction in vital resources (e.g., food, shelter, living space) or change in environmental conditions (e.g., temperature, substrate, salinity) beyond the tolerance range of important species of fish or wildlife that rely on the habitat values found within the designated area. Indicators of a significantly impaired habitat focus on ecological alterations and may include but are not limited to reduced carrying capacity, changes in community structure (food chain relationships, species diversity), reduced productivity and/or increased incidence of disease and mortality.

The tolerance range of a species of fish or wildlife is not defined as the physiological range of conditions beyond which a species will not survive at all, but as the ecological range of conditions that supports the species population or has the potential to support a restored population, where practical. Either the loss of individuals through an increase in emigration or an increase in death rate indicates that the tolerance range of the species has been exceeded. An abrupt increase in death rate may occur as an environmental factor falls beyond a tolerance limit (a range has both upper and lower limits). Many environmental factors, however, do not have a sharply defined tolerance limit, but produce increasing emigration or death rates with increasing departure from conditions that are optimal for the species.

The range of parameters that should be considered in applying the habitat impairment test include but are not limited to the following:

1. Physical parameters such as living space, circulation, flushing rates, tidal amplitude, turbidity, water temperature, depth (including loss of littoral zone), morphology, substrate type, vegetation, structure, erosion and sedimentation rates;
2. Biological parameters such as community structure, food chain relationships, species diversity, predator/prey relationships, population size, mortality rates, reproductive rates, meristic features, behavioral patterns and migratory patterns; and
3. Chemical parameters such as dissolved oxygen, carbon dioxide, acidity, dissolved solids, nutrients, organic, salinity, and pollutants (heavy metals, toxics and hazardous materials).

Although not comprehensive, examples of generic activities and impacts that could destroy or significantly impair habitat values are provided within the New York State Department of State's 1992 Significant Coastal Fish and Wildlife Habitat Program document. The Impact Assessment section of that document provides a narrative for each designated habitat in New York City. The habitats are listed as Lemon Creek, Fresh Kills, Pralls Island, Sawmill Creek Marshes, Goethals Bridge Pond, Shooters Island, Lower Hudson Reach, North & South Brother

Island, Pelham Bay Park Wetlands, Little Neck Bay, Alley Pond Park, Udall's Cove, Meadow and Willow Lakes, Jamaica Bay, and Breezy Point. This information is provided to assist in applying the habitat impairment test to a proposed activity.

POLICY 8: *Protect fish and wildlife resources in the coastal area from the introduction of hazardous waste and other pollutants which bioaccumulate in the foodchain or which cause significant sublethal or lethal effect on those resources.*

POLICY 9: *Expand recreational use of fish and wildlife resources in coastal areas by increasing access to existing resources, supplementing existing stocks and developing new resources.*

The following additional guidelines should be considered by State and Federal agencies as they determine the consistency of their proposed action with the above policy:

1. Consideration should be made by Federal and State agencies as to whether an action will impede existing or future utilization of the State's recreational fish and wildlife resources.
2. Efforts to increase access to recreational fish and wildlife resources should not lead to stocks, and expanding aquaculture facilities.

The following additional guidelines should be considered by State and Federal agencies as they determine the consistency of their proposed action with the above policy:

- a. A public agency's commercial fishing development initiative should not preempt or displace private sector initiative.
- b. A public agency's efforts to expand existing or create new on-shore commercial fishing support facilities should be directed towards unmet development needs rather than merely displacing existing commercial fishing activities from a nearby port. This may be accomplished by taking into consideration existing State or regional commercial fishing development plans.
- c. Consideration should be made by State and Federal agencies whether an action will impede existing utilization or future development of the State's commercial fishing resources.
- d. Commercial fishing development efforts should be made in a manner that ensures the maintenance and protection of the renewable fishery resources.

POLICY 10: *Further develop commercial finfish, shellfish and crustacean resources in the coastal areas by encouraging the construction or improvement of existing on-shore commercial fishing facilities, increasing marketing of the State's seafood products, maintaining adequate stocks and expanding agricultural facilities.*

POLICIES 11-17: FLOODING AND EROSION

Natural features such as beaches, bluffs, wetlands, dunes, and near-shore shallow waters absorb wave energy and protect coastlines from wind and waves, storm-induced high water, and other causes of flooding and erosion. The following group of policies address the flooding and erosion concerns for proposed actions in the coastal zone.

POLICY 11: Buildings and other structures will be sited on the coastal area so as to minimize damage to property and the endangering of human lives by flooding and erosion.

Flooding

This policy requires compliance with Local Law 33 and Article 10 of the Administrative Code if the action is located in the flood hazard area.

To determine if the proposed action is within the flood hazard area, check the Flood Insurance Rate Maps available at the New York City Department of City Planning or the Federal Emergency Management Agency. If the proposed action is located in an area of the map designated as an "A" zone or a "V" zone, further analysis is needed. The next step is to determine the proposed action's site elevation by converting the elevation identified on the Flood Insurance Rate Maps, based on the National Geodetic Vertical Datum (NGVD) to (NGVD), to the local datum as described in the table below.

National Geodetic Vertical Datum (NGVD) is a vertical control used as a reference for establishing elevations within the flood plain. It is the United States coast and geodetic survey mean sea level datum of 1929. The following table shall be used to convert NGVD to borough datum elevations.

<u>Borough</u>	<u>Conversion Figure*</u>
Bronx	+ 2.608
Brooklyn	+ 2.547
Manhattan	+ 2.752
Queens	+ 2.725
Staten Island	+ 3.192

* Add conversion figure to NGVD to obtain borough datum elevation in feet.

If the action is in the flood hazard area, local law requires that buildings must have the lowest floor (including the basement) elevated or floodproofed to or above the Base Flood Elevation.

The analyst should consider how any project buildings would comply with Local Law 33, and in certain cases, the rationale for the selected flood protection techniques.

Erosion Hazard Areas

Beaches, boardwalks and shorefront communities are valuable assets that must be protected and maintained. If placed inappropriately and without effective shore protection, these assets can be destroyed or become prohibitively expensive to maintain. In general, non-structural erosion control, including dune building, beach nourishment, and adequate set back from eroding areas is preferred over structural solutions.

Locations of the proposed action should be checked on the Coastal Erosion Hazard Maps to determine if the proposed action is with a Coastal Erosion Hazard Area.

If the proposed action is within a designated Coastal Erosion Hazard Area, the proposed action will be subject to the restrictions pursuant to Coastal Erosion Management Regulations, 6 NYCRR Part 505.

NEW YORK CITY POLICY C: *Provide shorefront protection against coastal erosion hazards where there is public benefit and public use along non-public shores.*

NEW YORK CITY POLICY D: *Provide technical assistance for the identification and evaluation of erosion problems, as well as the development of erosion control plans along privately owned erosion shores.*

NEW YORK CITY POLICY E: *Implement public and private structural flood and erosion control projects only when:*

- *Public economic and environmental benefits exceed public economic and environmental costs;*
- *Nonstructural solutions are proven to be ineffective or cost prohibitive;*
- *Projects are compatible with other coastal management goals and objectives, including aesthetics, access and recreation;*
- *Adverse environmental impacts are minimized;*
- *Natural protective features are not impaired; and*
- *Adjacent (downdrift) shorelines are not adversely affected.*

POLICY 12: *Activities or development in the coastal area will be undertaken so as to minimize their adverse effects upon natural features which protect against flooding and erosion.*

POLICY 13: *The construction or reconstruction of erosion protection structures shall be undertaken only if they have a reasonable probability of controlling erosion for at least thirty years as demonstrated in design and construction standards and/or assured maintenance or replacement programs.*

POLICY 14: *The activities and development including the construction or reconstruction of erosion protection structures, shall be undertaken so that there will be no measurable increase in erosion nor flooding at the site of such activities nor development at other locations.*

POLICY 15: *Mining, excavation, or dredging in coastal waters shall not significantly interfere with the natural coastal processes which supply beach materials to land adjacent to such waters and shall be undertaken in a manner which will not cause an increase in erosion of such lands.*

Information about erosion is provided in Section 3I, "Natural Resources."

POLICY 16: *Public funds shall be expended for activities and development, including the construction or reconstruction of erosion control structures, only where the public benefits clearly outweigh their long-term monetary and other costs including their potential for increasing erosion and their adverse effects on natural protective features.*

POLICY 17: *Non-structural measures to minimize damage to natural resources and property from flooding and erosion shall be used whenever possible.*

POLICIES 18-25: THE PUBLIC WATERFRONT

Historically, the public right of access to and use of the foreshore and waters—the public trust doctrine as it has been termed—is based on the conviction that the "wet sand" between high and low water, underwater land and the water itself has unique characteristics associated with a public purpose.

Concurrent with the public trust, the riparian owner (the owner of land adjoining the water) had the right of access to the lands under water to build a dock or pier from the upland, and the right to make other improvements that would allow navigation, fishing or recreation.

The common law recognized that the public trust and the riparian rights of private owners often were in conflict. As cases came to the courts, the balance shifted with the circumstances. In recent years, the public trust doctrine has evolved to include recreation, aesthetic enjoyment, and environmental protection in addition to the historic considerations of fishing and navigation. Although the New York courts have not articulated this definition of the public trust in a detailed manner, the expanded definition of public access should be recognized as part of New York law.

POLICY 18: *To safeguard the vital interest of the State of New York and of its citizens in the waters and other valuable resources of the State's coastal area, all practicable steps shall be taken to ensure that such interests are accorded full consideration in the deliberations, decisions and actions of State and Federal bodies with authority over those waters and resources.*

POLICY 19: *Protect, maintain and increase the level and types of access to public water-related recreation resources.*

As set forth in the Comprehensive Waterfront Plan, an overriding principle of planning today is to re-establish the public's connection to the waterfront by creating new opportunities for visual, physical, and recreational access. This goal can be realized in various ways: by extending and improving a network of public spaces through parks, street ends and numerous publicly owned properties along the shoreline; and by enhancing and connecting these spaces with public access along the waterfront on private properties where compatible redevelopment is taking place.

The following State guidelines will be used in determining the consistency of a proposed action with this policy:

1. The existing access from adjacent or proximate public lands or facilities to public water-related recreation resources and facilities shall not be reduced, nor shall the possibility of increasing access in the future from adjacent or proximate public lands or facilities to public water-related recreation resources and facilities be eliminated, unless in the latter case, estimates of future use of these resources and facilities are too low to justify maintaining or providing increased public access.

The following is an explanation of the terms used in the above guidelines:

- a. Access—the ability and right of the public to reach and use public coastal lands and waters.
- b. Public water-related recreation resources or facilities—all public lands or facilities that are suitable for passive or active recreation that requires either water or a waterfront location or is enhanced by a waterfront location.
- c. Public lands or facilities—lands or facilities held by State or local government in fee simple or less-than-fee simple ownership and to which the public has access or could have access, including underwater lands and the foreshore.

- d. A reduction in the existing level of public access—includes but is not limited to the following:
- (1) The number of parking spaces at a public water-related recreation resource or facility is significantly reduced.
 - (2) The service level of public transportation to a public water-related recreation resource or facility is significantly reduced during peak season use and such reduction cannot be reasonably justified in terms of meeting systemwide objectives.
 - (3) Pedestrian access is diminished or eliminated because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities.
 - (4) There are increases in the following: already existing special fares of public transportation to a public water-related recreation resource or facility; and/or admission fees to such a resource or facility, and an analysis shows that such increases will significantly reduce usage by individuals or families with incomes below the State government established poverty level.
- e. An elimination of the possibility of increasing public access in the future includes, but is not limited to the following:
- (1) Construction of public facilities that physically prevent the provision, except at great expense, of convenient public access to public water-related recreation resources and facilities.
 - (2) Sale, lease, or other transfer of public lands that could provide public access to public water-related recreation resources and facilities.
 - (3) Construction of private facilities that physically prevent the provision of convenient public access to public water-related recreation resources or facilities from public lands and facilities.
2. Any proposed project to increase public access to public water-related recreation resources and facilities shall be analyzed according to the following factors:
- a. The level of access to the provided should be in accord with estimated public use. If not, the proposed level of access to be provided shall be deemed inconsistent with the policy.
 - b. The level of access to be provided shall not cause a degree of use that would exceed the physical capability of the resource or facility. If this were determined to be the case, the proposed level of access to be provided shall be deemed inconsistent with the policy.
3. The State will not undertake or fund any project that increases access to a water-related resource or facility that is not open to all members of the public.
4. In their plans and programs for increasing public access to public water-related resources and facilities, State agencies shall give priority in the following order to projects located: within the boundaries of the Federal-Aid Metropolitan Urban Area and served by public transportation; within the boundaries of the Federal-Aid Metropolitan Urban Area but not served by public transportation; outside the defined Urban Area boundary and served by public transportation; and outside the defined Urban Area boundary but not served by public transportation.

Consideration may be given to the following guidance on the provision of public access:

- Public Access should feel public.
- Public Access should be useable.
- Site design should provide, maintain, and enhance visual access and visual quality of the waterfront.
- Public access shall be continuous where appropriate and possible.

- Public access should be designed for durability and low maintenance.
- Public access should maintain safety and security.
- Design of public access should have minimum impact on fragile environments.
- Design of public access should provide distinction between public and private spaces.
- The New York City waterfront symbol should be used to indicated public access (see New York City Waterfront Symbols Guidelines).

POLICY 20: *Access to the publicly owned foreshore or water's edge, and to the publicly owned lands immediately adjacent to these areas shall be provided, and it shall be provided in a manner compatible with the adjoining uses. To ensure that such lands remain available for public use, they will be retained in public ownership.*

The following State coastal policy guidelines will be used in determining the consistency of a proposed action with this policy:

1. Existing access from adjacent or proximate public lands or facilities to existing public coastal lands and/or waters shall not be reduced, nor shall the possibility of increasing access in the future from adjacent or nearby public lands or facilities to public coastal lands and/or waters be eliminated, unless such actions are demonstrated to be of overriding regional or Statewide public benefit, or in the latter case, estimates of future use of these lands and waters are too low to justify maintaining or providing increased access.

The following is an explanation of the terms in the above guidelines:

- a. (See definitions under Policy 19 for "access" and "public lands or facilities").
 - b. A reduction in the existing level of public access—includes but is not limited to the following:
 - (1) Pedestrian access is diminished or eliminated because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities.
 - (2) Pedestrian access is diminished or blocked completely by public or private development.
 - c. An elimination of the possibility of increasing public access in the future—includes but is not limited to, the following:
 - (1) Construction of public facilities that physically prevent the provision, except at great expense, of convenient public access to public coastal lands and/or waters.
 - (2) Sale, lease, or other conveyance of public lands that could provide public access to public coastal lands and/or waters from public lands and facilities.
 - (3) Construction of private facilities that physically prevent the provision of convenient public access to public coastal lands and/or waters from public lands and facilities.
2. The existing level of public access within public coastal lands or waters shall not be reduced or eliminated. A reduction or elimination in the existing level of public access—includes but is not limited to the following:
 - a. Access is reduced or eliminated because of hazardous crossings required at new or altered transportation lines, or similar linear facilities.
 - b. Access is reduced or blocked completely by any public development.

3. Public access from the nearest public roadway to the shoreline and along the coast shall be provided by new land use or development except where (a) it is inconsistent with public safety, military security, or the protection of identified fragile coastal resources; (b) adequate access exists within one-half mile; or (c) agriculture would be adversely affected. Such access shall not be required to be open to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.
4. The State will not undertake or fund any project that increases access to a water-related resource or facility that is not open to all members of the public.
5. In their plans and programs for increasing public access, State agencies shall give priority in the following order to projects located; within the boundaries of the Federal-Aid Metropolitan Urban Area but not served by public transportation; within the Federal-Aid Metropolitan Urban Area but not served by public transportation; outside the defined Urban Area boundary and served by public transportation; outside the defined Urban Area boundary and served by public transportation; and outside the defined Urban Area boundary but not served by public transportation.
6. Proposals for increased public access to coastal lands and waters shall be analyzed according to the following factors:
 - a. The level of access to be provided should be in accord with estimated public use. If not, the proposed level of access to be provided shall be deemed inconsistent with the policy.
 - b. The level of access to be provided shall not cause a degree of use that would exceed the physical capability of the coastal lands or waters. If this were determined to be the case, the proposed level of access to be provided shall be deemed inconsistent with the policy.

POLICY 21: *Water-dependent and water-enhanced recreation will be encouraged and facilitated, and will be given priority over non-water-related uses along the coast.*

Water-related recreation includes such obviously water-dependent activities as boating, swimming, and fishing as well as certain activities that are enhanced by a coastal location and increase the general public's access to the coast such as pedestrian and bicycle trails, picnic areas, scenic overlooks and passive recreation areas that take advantage of coastal scenery.

Provided the development of water-related recreation is consistent with the preservation and enhancement of such important coastal resources as fish and wildlife habitats, aesthetically significant areas, historic and cultural resources, agriculture and significant mineral and fossil deposits, and provided demand exists, water-related recreation development is to be increased and such uses shall have a higher priority than any non-coastal dependent uses, including non-water-related recreation uses. In addition, water-dependent recreation uses shall have a higher priority over water-enhanced recreation uses. Determining a priority among coastal-dependent uses will require a case-by-case analysis.

Among priority areas for increasing water-related recreation opportunities are those areas where access to the recreation opportunities of the coast can be provided by new or existing public transportation services and those areas where the use of the shore is severely restricted by highways, railroads, industry, or other forms of existing intensive land use or development. The New York State Department of State, working with the Office of Parks, Recreation and Historic Preservation and with local governments, will identify communities whose use of the shore has been so restricted and those sites shoreward of such developments that are suitable for recreation and can be made accessible. Priority shall be given to recreational development of such lands.

The siting or design of new public development in a manner that would result in a barrier to the recreational use of a major portion of a community's shore should be avoided as much as practicable.

Among the types of water-dependent recreation, provision of adequate boating services to meet future demand is to be encouraged by this Program. The siting of boating facilities must be consistent with preservation and enhancement of other coastal resources and with their capacity to accommodate demand. The provision of new public boating facilities is essential in meeting this demand, but such public actions should avoid competition with private boating development. Boating facilities will, as appropriate, include parking, park-like surroundings, toilet facilities, and pumpout facilities. Harbors of Refuge are particularly needed for a better locational pattern of boating facilities to correct problems of overused, insufficient, or improperly sited facilities.

Also to be encouraged is non-motorized recreation in the State's coastal area. Water-related off-road recreational vehicle use is an acceptable activity, provide no adverse environmental impacts occur. Where adverse environmental impacts will occur, mitigating measures will be implemented, where practicable to minimize such adverse impacts. If acceptable mitigation is not practicable, prohibition or the use by off-road recreational vehicles will be posted and enforced.

In addition to the policy explanation above, consideration may be given to the Comprehensive Waterfront Plan and other waterfront policies and plans. A goal of the plan is to promote the use of the waterfront for activities that need to be at the water's edge or that enliven it. Three categories of uses should be applied in the review of proposed actions:

- Water-dependent uses are those that require direct access or proximity to marine or tidal waters in order to function.
- Waterfront-enhancing uses are primarily recreational, cultural, retail, or entertainment uses whose location on the waterfront would add to public use and enjoyment of the water's edge.
- Non-water-related uses include all uses that do not require a waterfront location and whose location at the water's edge would not automatically add to public use or enjoyment of the waterfront.

The Comprehensive Waterfront Plan distinguishes between uses that enliven the public aspect of the waterfront and uses that derive some benefit from the waterfront location, including economic benefit. Water-enhancing areas will be given priority after water-dependent uses.

NEW YORK CITY POLICY F: *Priority shall be given to the development of mapped parklands and appropriate open space where the opportunity exists to meet the recreational needs of:*

- *Immobile user groups; and*
- *Communities without adequate waterfront park space and/or facilities.*

According to the Comprehensive Waterfront Plan, as parks are developed or redesigned, waterfront access and water-related activity can be incorporated into the plans. In some large or hilly parks, the shoreline is far away or inaccessible from centers of activity inside or outside the park. Because safety is an important concern, waterfront areas must be visually and physically connected to centers of activity, with frequent, direct and safe paths to supervised areas or public streets.

NEW YORK CITY POLICY G: *Maintain and protect New York City beaches to the fullest extent possible.*

Beach nourishment programs include Coney Island and the Rockaway Peninsula. Consideration is being given to Staten Island's south and east shores. Case-by-case projects have been undertaken as needed, such as nourishment projects at Orchard Beach.

POLICY 22: *Development when located adjacent to the shore will provide for water-related recreational activities whenever such recreational use is appropriate in light of reasonably anticipated demand for such activities, and the primary purpose of the development.*

Under Policy 22, the types of development that can generally provide water-related recreation as a multiple use include but are not limited to:

- Parks
- Highways
- Power plants
- Utility transmission rights-of-way
- Sewage treatment facilities
- Mental health facilities*
- Hospitals*
- Prisons*
- Schools, universities*
- Military facilities*
- Nature preserves*
- Large residential subdivisions (50 units)
- Shopping centers
- Office buildings

Appropriate recreation uses that do not require any substantial additional construction shall be provided at the expense of the project sponsor provided the cost does not exceed 2 percent of total project cost.

POLICY 23: *Protect, enhance, and restore structures, districts, areas, or sites that are of significance in the history, architecture, archaeology, or culture of the State, its communities, or the nation.*

The structures, districts, areas, or sites that are of significance in the history, architecture, archaeology or culture of the State, its communities, or the Nation comprise the following resources:

- (a) A resource that is in a Federal or State park established, among other reasons, to protect and preserve the resource.
- (b) A resource on, nominated to be on, or determined eligible to be on the National or State Register of Historic Places.

* The types of recreation uses likely to be compatible with these facilities are limited to the more passive forms, such as trails or fishing access. In some cases, land areas not directly or immediately needed by the facility could be used for recreation.

- (c) A resource on or nominated to be on the State Nature and Historic Preserve Trust.
- (d) An archeological resource that is on the State Department of Education's inventory of archeological sites.
- (e) A local landmark, park, or locally designated historic district that is located within the boundary of an approved local waterfront revitalization program.
- (f) A resource that is a significant component of an Urban Cultural Park.

All practicable means shall be considered and adopted to prevent a significant adverse change to these resources. A significant adverse change includes but is not limited to:

- (a) Alteration of or addition to one or more of the architectural, structural, ornamental or functional features of a building, structure, or site that is a recognized historic, cultural, or archeological resource, or component thereof. Such features are defined as encompassing the style and general arrangement of the exterior of a structure and any original or historically significant interior features including type, color, and texture of building materials, entryways, and doors; fenestration; lighting fixtures; roofing; sculpture and carving; steps rails; fencing; windows; vents and other openings; grillwork; signs; canopies; and other appurtenant fixtures and, in addition, all buildings, structures, outbuildings, walks, fences, steps, topographical feature, earthworks, paving, and signs located on the designated resource property. (To the extent they are relevant, the Secretary of the Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" shall be followed).
- (b) Demolition or removal in full or part of a building, structure, or earthworks that is a recognized historic, cultural, or archeological resource or component thereof, to include all those features described in (a) above plus any other appurtenant fixture associated with a building structure or earthwork.
- (c) All proposed actions within 500 feet of the perimeter of the property boundary of the historic, architectural, cultural, or archeological resource and all actions within an historic district that would be incompatible with the objective of preserving the quality and integrity of the resource. Primary considerations to be used in making judgment about compatibility should focus on the visual and locational relationship between the proposed actions and the special character of the historic, cultural, or archeological resource. Compatibility between the proposed action and the resource means that the general appearance of the resource should be reflected in the architectural style, design material, scale, proportion, composition, mass, line, color, texture, detail, setback, landscaping, and related items of the proposed actions. With historic districts this would include infrastructure improvements or changes, such as street and sidewalk paving, street furniture, and lighting.

NEW YORK CITY POLICY H: *Insure ongoing maintenance of all waterfront parks and beaches to promote full use of secure, clean areas with fully operable facilities.*

POLICY 24: *Prevent impairment of scenic resources of Statewide significance.*

Consideration may be given to the Comprehensive Waterfront Plan that states that views to and along the water add to the economic value of development and to the quality of life in both public and private spaces. Skylines, bridges, and landmarks are perhaps most memorable when reflected in the water against a changing sky. Waterfronts are among the few places in the City that offer wide vistas.

The Coastal Management Program will identify on the coastal area map scenic resources of Statewide significance. The following general criteria will be combined to determine significance:

- **Quality.** The basic elements of design (i.e., two-dimensional line, three-dimensional form, texture, and color) combine to create all high quality landscapes. The water, landforms, and built components of scenic coastal landscapes exhibit variety of line, form, texture, and color. This variety is not, however, so great as to be chaotic. Scenic coastal landscapes also exhibit unity of components. This unity is not, however, so complete as to be monotonous. Example: the Thousand Islands where the mix of water, land, vegetative and man-made components creates interesting variety, while the organization of these same components creates satisfying unity.

Often, high-quality landscapes contain striking contrasts between lines, forms, textures and colors. Example: A waterfall where horizontal and vertical lines and smooth turbulent textures meet in dramatic juxtaposition.

Finally, high-quality landscapes are generally free of discordant features, such as structures or other elements that are inappropriate in terms of siting, form, scale, and/or materials.

- **Uniqueness.** The uniqueness of high-quality landscapes is determined by the frequency of occurrence of similar resources in a region of the State or beyond.
- **Public Accessibility.** A scenic resource of significance must be visually and, where appropriate, physically accessible to the public.
- **Public Recognition.** Widespread recognition of a scenic resource is not a characteristic intrinsic to the resource. It does, however, demonstrate people's appreciation of the resource for its visual, as well as evocative, qualities. Public recognition serves to reinforce analytic conclusions about the significance of a resource.

When considering a proposed action, agencies shall first determine whether the action could affect a scenic resource of Statewide significance. This determination would involve 1) a review of the coastal area map to ascertain if it shows an identified scenic resource that could be affected by the proposed action, and 2) a review of the types of activities proposed to determine if they would be likely to impair the scenic beauty of an identified resource.

Impairment will include: (i) the irreversible modification of geologic forms; the destruction or removal of vegetation; the modification, destruction, or removal of structures, whenever the geological forms, vegetation, or structures are significant to the scenic quality of an identified resource; and (ii) the addition of structures that because of siting or scale will reduce identified views or that because of scale, form, or materials will diminish the scenic quality of an identified resource.

The following siting and facility-related guidelines are to be used to achieve this policy, recognizing that each development situation is unique and that the guidelines will have to be applied accordingly. Guidelines include:

- Siting structures and other development such as highways, power lines, and signs, back from shorelines or in other inconspicuous locations to maintain the attractive quality of the shoreline and to retain views to and from the shore;
- Clustering orienting structures to retain views, save open space and provide visual organization to a development;
- Incorporating sound, existing structures (especially historic buildings) into the overall development scheme;
- Removing deteriorated and/or degrading elements;
- Maintaining or restoring the original land form, except when changes screen unattractive elements and/or add appropriate interest;
- Maintaining or adding vegetation to provide interest, encourage the presence of wildlife, blend structures into the site, and obscure unattractive elements, except when selective clearing removes unsightly, diseased, or hazardous vegetation and when selective clearing creates views of coastal waters;

- Using appropriate materials, in addition to vegetation, to screen unattractive elements; and
- Using appropriate scales, forms, and materials to ensure that buildings and other structures are compatible with and interest to the landscape.

POLICY 25: *Protect, restore and enhance the natural and man-made resources which are not identified as being of Statewide significance but which contribute to the overall scenic quality of coastal area.*

The siting and design guidelines listed under Policy 24 should be considered for proposed actions in the general coastal area. More emphasis may need to be placed on removal of existing elements, especially those that degrade the coastal area scenic quality, and on addition of new elements or other changes, that enhance the coastal area scenic quality. Removal of vegetation at key points to improve visual access to coastal waters is one such change that might be expected to enhance scenic quality.

POLICY 26: *Conserve and protect agricultural lands in the State's coastal area.*

NOT APPLICABLE IN NEW YORK CITY

POLICY 27: *Decision on the siting and construction of major energy facilities in the coastal area will be based on public energy needs, compatibility of such facilities with the environment and the facility's need for a shorefront location.*

NEW YORK CITY POLICY I: *Siting of liquified and substitute natural gas facilities, including those associated with the tankering of such gas, shall take into consideration State and national energy needs, public safety concerns and the necessity for a shorefront location.*

POLICY 28: *Ice management practices shall not damage significant fish and wildlife and their habitats, increase shoreline erosion or flooding or interfere with the production of hydroelectric power.*

POLICY 29: *Encourage the development of energy resource on the outer continental shelf (OCS) and in other water bodies and ensure the environmental safety of such activities.*

POLICY 30: *Municipal, industrial, and commercial discharge of pollutants, including but not limited to, toxic and hazardous substances, into coastal waters will conform to State water quality standards.*

POLICY 31: *State coastal area policies and management objectives of approved local waterfront revitalization programs will be considered while reviewing coastal water classifications and while modifying water quality standards; however, those waters already overburdened with contaminants will be recognized as being a development constraint.*

POLICY 32: *Encourage the use of alternative or innovative sanitary waste systems in smaller communities where the cost of conventional facilities are unreasonably high, given the size of the existing tax base of these communities.*

POLICY 33: *Best management practices will be used to ensure the control of stormwater runoff and combined sewer overflows draining into coastal waters.*

POLICY 34: *Discharge of waste material into coastal waters from vessels under the State's jurisdiction will be limited so as to protect significant fish and wildlife habitats, recreational areas and water supply areas.*

POLICY 35: *Dredging and dredge spoil disposal in coastal waters will be undertaken in a manner that meets existing State dredging permit requirements and protects significant fish and wildlife habitats, aesthetic resources, natural protective features, important agricultural lands and wetlands.*

POLICY 36: *Activities related to the shipment and storage of petroleum and other hazardous materials will be conducted in a manner that will prevent or at least minimize spills into coastal waters: all practicable efforts will be undertaken to expedite the cleanup of such discharges; and restitution for damages will be required when these spills occur.*

POLICY 37: *Best management practices will be utilized to minimize the non-point discharge of excess nutrients, organics, and eroded soils into coastal waters.*

Consideration may be given to the Comprehensive Waterfront Plan, which states that non-point pollution is caused by runoff from land surfaces. Runoff comes from residential lawns, highways and urban streets, seeping septic tanks, leaking landfills, construction sites, and chemical spills. New York City's Local Law 7 (Section P110.0) sets standards for the design of stormwater systems. The Department of Environmental Protection is embarking on a program to identify and classify stormwater discharges resulting in water quality impairment and develop management standards to control them.

POLICY 38: *The quality and quantity of surface water and groundwater supplies will be conserved and protected particularly where such waters constitute the primary sole source of water supply.*

POLICY 39: *The transport, storage, treatment, and disposal of solid wastes, particularly hazardous wastes, within coastal areas will be conducted in such a manner so as to protect groundwater and surface waters supplies, significant fish and wildlife habitats, recreational areas, important agricultural lands, and scenic resources.*

The Federal Water Pollution Control Act requires all waters of the United States to be fishable and swimmable to the maximum extent practicable. See Section 3I, "Natural Resources," in this Manual.

NEW YORK CITY POLICY J: *Adopt end-use plans for landfill areas which specify the following:*

- *Final capacity.*
- *Final contours.*
- *Leachate, erosion, and gas control systems.*
- *Re-vegetation strategies.*
- *Interim review schedules.*

NEW YORK CITY POLICY K: *Curtail illegal dumping throughout the coastal zone and restore areas scarred by this practice.*

Consideration may be given to the Comprehensive Waterfront Plan, which states that wetlands outside of City, State, and Federal parklands lacking a clear jurisdictional responsibility are often treated as a no-man's land subject to illegal fill, unsightly dumping, and vandalism. Some of these wetlands will eventually be annexed to adjacent parks.

In addition, the plan calls for City agencies, including the Departments of Sanitation, Transportation, Parks and Recreation, and Environmental Protection, to pursue a clean-up and guardrail program designed to stop illegal access and dumping in the most vulnerable wetlands. The City should explore using the Department of General Services' Land Reclamation Program, which cleans and "greens" large tracts of vacant, innercity land to maintain wetland areas unsuitable for parkland.

NEW YORK CITY POLICY L: *Encourage energy development from waste and waste landfills.*

POLICY 40: *Effluent discharged from major steam electric generating and industrial facilities into coastal waters will not be unduly injurious to fish and wildlife and will conform to State water quality standards.*

POLICY 41: *Land use or development in the coastal area will not cause national or State air quality standards to be violated.*

Where feasible, the Comprehensive Waterfront Plan encourages an increased role for the use of waterborne and rail freight to help improve air quality.

POLICY 42: *Coastal management policies will be considered if the State reclassifies land areas pursuant to the prevention of significant deterioration regulations of the Federal Clean Air Act.*

POLICY 43: *Land use or development in the coastal area must not cause the generation of significant amounts of the acid rain precursors: nitrates and sulfates.*

POLICY 44: *Preserve and protect tidal and freshwater wetlands and preserve the benefits derived from these areas.*

The Comprehensive Waterfront Plan points out that although wetlands are regulated by several agencies, overlapping and often confusing regulatory regimes may not adequately protect them. For example, the U.S. Army Corps of Engineers does not regulate adjacent areas, and DEC does not regulate upland areas adjacent to wetlands if they are the result of fill and are more than 10 feet above sea level. Construction in these unregulated areas can generate runoff and other disturbances that may harm adjacent wetlands. Even when regulated, some buffer areas may not be deep enough to protect the wetland ecosystem, which may contain important grassland and woodland habitats. See Section 3I, "Natural Resources," in this Manual.

WATERFRONT REVITALIZATION PROGRAM APPENDIX 2

**Procedures for Waterfront Revitalization Consistency
Local, State, and Federal Actions**

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WATERFRONT REVITALIZATION PROGRAM APPENDIX 2

Procedures For Waterfront Revitalization Program Consistency Local, State, and Federal Actions

In 1982, the New York City Board of Estimate adopted the Waterfront Revitalization Program (WRP) to guide and promote revitalization and redevelopment of the City's waterfront areas. The WRP designated the City Planning Commission (CPC) as the City Coastal Commission (CCC) to coordinate the review of local, State, and Federal development proposals along New York City's nearly 600 miles of waterfront. The mandate of the CCC is to ensure that each action it reviews is consistent with the policies established in the WRP. Described below are the procedures utilized by the CPC, in its role as the CCC, and by DCP.

The current review of waterfront-related actions can be divided into two separate categories: 1) local projects brought to the CPC via ULURP or 197-a or to the Department of City Planning via CEQR and BSA, and 2) Federal and State actions that are subject to WRP consistency review but not to any other local review processes.

Local Actions

Local actions subject to CEQR, ULURP, or other CPC processes are reviewed for consistency by DCP staff (Waterfront and Open Space Division). In order to implement the CCC's mandate to review projects for consistency with WRP policies, WRP consistency is incorporated into the CPC's review of actions. Within this framework, the CPC must hold a public hearing and take one of the following actions: (1) approve, (2) approve with modifications, or (3) disapprove the action. When applicable, a recommendation is then forwarded to the City Council in the CPC's report. The reports will state that the CPC has determined, acting as CCC, the consistency with the WRP. For BSA actions subject to CEQR, WRP consistency is incorporated within the CEQR review.

Procedures

All local WRP actions brought before the CPC through the ULURP or 197-a review process will continue to follow the existing procedures established for these projects. A WRP check-off box on the regular briefing sheet alerts the City Planning Commission that the project under review is also subject to City Coastal Commission review. In evaluating the project's effect on the City's waterfront, the City Coastal Commission will consider the policies set forth in the Waterfront Revitalization Program.

Once a ULURP or 197-a project is approved by the Commission, a WRP discussion will be included in the CPC report. If the project has been found consistent with the policies and intent of the WRP, language will be added to the report to the effect that: "The City Coastal Commission, having reviewed the waterfront aspects of this action, finds that the action will not substantially hinder the achievement of any WRP policy and hereby determines that this action is consistent with WRP policies." However, if the Commission approves a project that will hinder the achievement of waterfront policy, the report must reflect a CCC decision that the action has satisfied all four of the requirements set forth below:

- (a) no reasonable alternatives exist that would permit the action to be taken in a manner that would not substantially hinder the achievement of such policy;
- (b) the action taken will minimize adverse effects on such policies to the maximum extent practicable;
- (c) the action will advance one or more of the other coastal policies; and
- (d) the action will result in an overriding local or regional public benefit.

These requirements closely follow State Coastal Management Program decision-making findings (Section 600.4).

No special public notice requirements are necessary under WRP; these projects will follow existing ULURP and 197-a procedures for public notice.

Federal and State Actions

State and Federal actions are processed through WRP differently than local actions, but continue to receive the same technical review. Currently, the Waterfront and Open Space Division of DCP receives notice of Federal actions from the New York State Department of State (DOS), which coordinates consistency review for the various Federal agencies involved in New York State waterfront projects. Notice of State actions is received directly from the individual State agency before which an application affecting the waterfront is pending, such as the New York State Department of Environmental Conservation (DEC). Once received, the Waterfront and Open Space Division reviews the project's consistency with WRP policies and confers and coordinates with other divisions and borough offices, as needed.

Only certain Federal and State actions—those that exceed one or more of the designated thresholds—will be brought to the CPC, acting as the CCC. The Waterfront and Open Space Division will continue to manage the review of the others.

These thresholds are as follows:

- (a) Actions that require the balancing of several different policies;
- (b) Actions that are significantly inconsistent with waterfront policies;
- (c) Actions that require a Federal or State EIS; or
- (d) Actions that require policy interpretation.

Using the threshold analysis, the Waterfront and Open Space Division, as the coordinator of consistency review for Federal and State actions, will ascertain which actions require consideration by the CCC.

Procedures

Actions that do not exceed the thresholds will continue to be reviewed by the Waterfront and Open Space Division. These actions are generally standard permit applications that do not raise significant policy questions.

In all cases, a determination of consistency or inconsistency by the CCC or the Division must be forwarded to the affected agency within 30 days of receipt of information regarding the proposed project. When insufficient information is received, the Waterfront and Open Space Division will make a request of the applicant for additional information to ensure compliance with WRP regulations. The Division will notify the affected agency that until such information has been received and reviewed, the project is presumed inconsistent with WRP.

The Division will coordinate the intra- and interagency review of those actions that exceed the designated thresholds, acting as lead for WRP purposes throughout the review process. The actions will be reviewed at headquarters prior to CCC consideration to finalize agencywide coordination.

A briefing sheet for actions that exceed the designated thresholds, incorporating the information necessary for CCC consideration of the project, such as project location, requested actions, other permit requirements, project description/history, issues, applicable WRP policies and staff recommendations. These actions will appear at the end of the regular CPC agenda.

CCC consistency review of Federal and State actions, whether by the Department or the CCC, does not require a public hearing or any public review. A public hearing in fact would be impossible under the tight time constraints

for consistency review; each action is tied to the review schedules of each agency. Public participation in these Federal and State actions is coordinated by the permitting State or Federal agency.

Findings of the CCC will be transmitted to the permitting agency by the Waterfront and Open Space Division. If the CCC determines that the action is consistent with the policies and intent of the WRP, then a letter to the appropriate State or Federal agency would state that: "The City Coastal Commission, having reviewed the waterfront aspects of this action, finds that the action will not substantially hinder the achievement of any WRP policy and hereby determines that this action is consistent with WRP policies."

However, if the CCC determines that the project will hinder the achievement of the WRP, a letter from the CCC will be sent to the project applicant and the permitting agency, stating whether the action has satisfied the following requirements:

- (a) no reasonable alternatives exist that would permit the action to be taken in a manner which would not substantially hinder the achievement of such policy;
- (b) the action taken will minimize all adverse effects on such policies to the maximum extent practicable;
- (c) the action will advance one or more of the other coastal policies; and
- (d) the action will result in an overriding local public benefit.

The Waterfront and Open Space Division will continue to be the central record keeper for all State and Federal CCC actions. An official WRP file number, project name, and applicant name, and project status will be recorded for all actions.

WATERFRONT REVITALIZATION PROGRAM APPENDIX 3

Consistency Assessment Form

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NEW YORK CITY WATERFRONT REVITALIZATION PROGRAM

Consistency Assessment Form

Proposed actions subject to CEQR, ULURP, State or Federal Agency Actions that are situated within the designated boundaries of New York City's Coastal Zone must be assessed for their consistency with the City's Local Waterfront Revitalization Program (LWRP). New York City's LWRP was adopted as a 197-a Plan in coordination with local, State, and Federal laws and regulations, including the State's Coastal Management Program (Executive Law, Article 42) and the Federal Coastal Zone Management Act of 1972 (P.L. 92-583). This form is intended to assist an applicant in certifying that the proposed activity is consistent with the local Waterfront Revitalization Program. It should be completed at the time when the local or state application is prepared. The Department of City Planning will use the completed form and accompanying information in its review of the applicant's certification of consistency. Answering "yes" to a question in section C does not necessarily mean an inconsistency exists but rather is intended to alert the applicant and reviewer that additional information is required.

A. APPLICANT

1. Name: _____
(please print)
2. Address: _____
3. Telephone: Area Code () _____
4. Owner: _____

B. PROPOSED ACTIVITY

1. Brief description of activity: _____

2. Purpose of activity: _____
3. Location of activity: _____

County	Street or Site Description

4. Type of local or state action required: _____
5. If a federal or state permit/license was issued or is required for the proposed activity, identify the agency and provide the application or permit number, if known: _____
6. IS federal or state funding being used to finance the project? If so, please identify the funding source.

C. COASTAL ASSESSMENT The following checklist represents in a broad sense, the 44 State Coastal Zone Management Program policies and 12 City LWRP policies. (The numbers and letters in parentheses after each question indicated the policy or policies that are the focus of the question.) A listing and detailed explanation of the Waterfront Revitalization Program policies titled New York City Waterfront Revitalization Program Manual can be obtained from the Department of City Planning Book Store located at 22 Reade Street, Manhattan, (212) 720-3667. Figures listed after various questions can be found in Section 3K of the Manual and are simplified, for information concerning detailed maps please contact the Department of City Planning, Waterfront and Open Space Division, (212) 720-3620.

Check either "Yes" or "No" for each of the following questions.

	<u>YES</u>	<u>NO</u>
1. Is the site(s) that would be affected by the action located in or near any significant coastal fish and wildlife habitats? (7) (see Figure 3K-2)	—	—
2. Would the action involve any activity in or near a tidal or freshwater wetland? (44) (see Figure 3K-3)	—	—
3. Would the action result in any activities within a Federally designated flood hazard area and/or State-designated erosion hazard area? (11, 12, 17, C, D, E) (see Figure 3K-4)	—	—
4. Would the action involve construction or reconstruction of a flood or erosion control structure? (13, 14, 16, 17, C, D, E)	—	—
5. Would the action involve any new or increased activity on or near any beach, dune, barrier island, or bluff? (12, G)	—	—
6. Would the action involve mining, dredging, or dredge disposal, or placement of dredged or fill materials in coastal waters? (15, 35, B)	—	—
7. Would the action result in any of the following: -Shipping, handling, or storing of solid wastes, hazardous materials, or other pollutants; -Development of a site that may contain contamination or has a history of underground fuel tanks, oil spills, etc.; -Construction activities that could lead to erosion. (8, 36, 37, 38, 39)	—	—
8. Would the action result in the discharge of toxins, hazardous substances, or other pollutants, effluent, or waste into any waters? (8, 30, 31, 34, 37, 38, 40)	—	—
9. Would the action result in the draining of storm water runoff or sewer overflows into coastal waters? (8, 32, 33)	—	—
10. Would the project in any way affect the water quality classification of nearby waters or be unable to be consistent with that classification? (31) (see Figure 3K-5)	—	—
11. Would the action cause violations of the National or State air quality standards? (41, 42)	—	—
12. Would the action result in significant amounts of acid rain precursors (nitrates and sulfates)? (43)	—	—
13. Would the action have any effect on commercial or recreational use of fish resources? (9, 10)	—	—
14. Would the action have any effects on surface water or groundwater supplies? (38)	—	—
15. Would the action result in a reduction of existing or required access to or along coastal waters, public access areas, public parks or open spaces? (19, 20, 21, F)	—	—

- | | | Yes | No |
|-----|---|-----|----|
| 16. | Would the action result in any development along the shoreline but NOT include new water-enhanced or water-dependent recreation space? (21, 22) | — | — |
| 17. | Would the action result in new open space that is not accessible to immobile (handicapped) user groups? (F) | — | — |
| 18. | Would the action result in the provision of open space without the provision for its maintenance? (H) | — | — |
| 19. | Would the action affect natural or built resources that contribute to the scenic quality of a coastal area? (25) | — | — |
| 20. | Does the site currently include elements that degrade the area's scenic quality or block views to the water? (25) | — | — |
| 21. | Would the proposed action have a significant adverse impact on historic or archaeological resources? (23) | — | — |
| 22. | Would the action be located in an important maritime and industrial area as shown in the New York City Comprehensive Waterfront Plan? (see Figure 3K-6)
Some of these areas may include portions of the following locations:
-Kill Van Kull in Staten Island from Howland Hook to Snug Harbor;
-Brooklyn waterfront at Red Hook and Sunset Park (from Pier 6 to Owls Head);
-Brooklyn Navy Yard;
-Newtown Creek; and
-South Bronx (Port Morris and Hunts Point). (2, 3) | — | — |
| 23. | Would the action be located in a small harbor area (any area with a unique maritime identity; for example, Sheepshead Bay or City Island)? (4) | — | — |
| 24. | Would the action involve the siting or construction of a facility essential to the generation or transmission of energy, or a natural gas facility, or would it develop new energy resources? (27, 29, I) | — | — |
| 25. | Would the action involve ice management practices? (28) | — | — |
| 26. | Would the action affect any sites that have been used as landfills? (J, L) | — | — |
| 27. | Is illegal dumping occurring on a site that would be affected by the action? (K) | — | — |
| 28. | Would the action affect solid waste management goals and objectives? (L) | — | — |
| 29. | Is the site of the action a deteriorated or underutilized waterfront site? (1, A) | — | — |
| 30. | Does the site of the action include any waterfront structures (e.g., piers, docks, bulkheads, wharves, or erosion protection devices)? (A) | — | — |
| 31. | Would the action result in a change in scale or character of a neighborhood? (1) | — | — |
| 32. | If the action would affect a site located on the waterfront, would it facilitate the siting of a use that is NOT water-dependent? (2) | — | — |

33. Would the proposed action require provision of new public services or infrastructure in an undeveloped or sparsely populated section of the coastal area? (5, 6) Yes No
— —
34. Would the action result in a physical alteration to a site along the waterfront, including land along the shoreline, land underwater, or coastal waters? (2, 11, 12, 18, 20-22, 25, 28, 32, 35, 37, 38, 41, 43, 44, A-E) — —

D. ADDITIONAL STEPS

If any of the questions in Section C are answered "Yes", then the applicant or agent is advised to consult the local Waterfront Revitalization Program document, available at the Department of City Planning Book Store. The proposed activity must be analyzed in more detail with respect to the applicable state or local coastal policies. On a separate page(s), the applicant or agent shall: (a) identify, by policy numbers, which coastal policies are affected by the activity, (b) briefly assess the effects of the activity upon the policy; and, (c) state how the activity is consistent with each policy. Following the completion of this written assessment, the applicant or agency shall complete Section E and submit the documentation required by Section F.

E. CERTIFICATION

The applicant or agent must certify that the information provided is truthful and that the proposed activity is consistent with the New York City Waterfront Revitalization Program or the State Coastal Management Program, as appropriate. If this certification cannot be made, the proposed activity shall not be undertaken as proposed and the applicant should contact the Waterfront and Open Space Division for further instructions. If the certification can be made, complete this Section.

"The proposed activity complies with New York State's approved Coastal Management Program, or with the applicable New York City Waterfront Revitalization Program, and will be conducted in a manner consistent with such program."

Applicant/Agent's Signature: _____ Date: _____

F. SUBMISSION REQUIREMENTS

1. The applicant or agent shall submit the following documents to the New York City Department of City Planning, Waterfront and Open Space Division, 22 Reade Street, 6W, New York, NY, 10007.
 - a. Original signed Waterfront Revitalization Program Assessment Form.
 - b. Copy of the completed ULURP, CEQR, or State Permit Application. (If applicable)
 - c. Other available information which would support the certification of consistency.
2. If there are any questions regarding the completion or submission of this form, contact the Department of City Planning, Waterfront and Open Space Division at (212) 720-3620.

TRAFFIC AND PARKING APPENDIX

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TRAFFIC AND PARKING APPENDIX 1

Recent High Pedestrian/Vehicle Accident Intersections

Source: NYC Department of Transportation, 2001

HIGH PEDESTRIAN LOCATIONS 2000

MAIN STREET:	CROSS STREET:	# OF ACCIDENT	BORO:
6TH AV	BROADWAY	16	MANHATTAN
E 125TH ST	LEXINGTON AV	14	MANHATTAN
7TH AV	W 34TH ST	14	MANHATTAN
E FORDHAM RD	WEBSTER AV	13	BRONX
AMSTERDAM AV	W 125TH ST	13	MANHATTAN
9TH AV	W 42ND ST	13	MANHATTAN
7TH AV	W 145TH ST	10	MANHATTAN
15TH AV	E 14TH ST	10	MANHATTAN
6TH AV	W 42ND ST	10	MANHATTAN
5TH AV	E 135TH ST	9	MANHATTAN
ARCHER AV	SUTPHIN BL	9	QUEENS
2ND AV	E 14TH ST	9	MANHATTAN
6TH AV	W 57TH ST	9	MANHATTAN
CASTLE HILL AV	WESTCHESTER AV	9	BRONX
20TH AV	86TH ST	9	BROOKLYN
FLATBUSH AV	NOSTRAND AV	8	BROOKLYN
E BURNSIDE AV	JEROME AV	8	BRONX
DELANCEY ST	ESSEX ST	8	MANHATTAN
5TH AV	E 23RD ST	8	MANHATTAN
E 188TH ST	WEBSTER AV	8	BRONX
PARKSIDE AV	OCEAN AV	8	BROOKLYN
E 124TH ST	LEXINGTON AV	8	MANHATTAN
UTICA AV	EASTERN PW	8	BROOKLYN
CHURCH AV	NOSTRAND AV	8	BROOKLYN
HOPKINSON AV	ATLANTIC AV	8	BROOKLYN
CHURCH AV	FLATBUSH AV	8	BROOKLYN
NOSTRAND AV	AVENUE X	8	BROOKLYN
8TH AV	W 39TH ST	8	MANHATTAN

MAIN STREET:	CROSS STREET:	# OF ACCIDENT	BORO:
86TH ST	BAY PW	8	BROOKLYN
NORTHERN BL	PARSONS BL	8	QUEENS
BROADWAY NB	W 145TH ST	8	MANHATTAN
8TH AV	W 42ND ST	7	MANHATTAN
CATHERINE ST	E BROADWAY	7	MANHATTAN
BROADWAY	CHAMBERS ST	7	MANHATTAN
5TH AV	E 55TH ST	7	MANHATTAN
2ND AV	E 79TH ST	7	MANHATTAN
8TH AV	W 33RD ST	7	MANHATTAN
3RD AV	E 23RD ST	7	MANHATTAN
E 59TH ST	LEXINGTON AV	7	MANHATTAN
6TH AV	W 14TH ST	7	MANHATTAN
FLATBUSH AV EXT	DE KALB AV	7	BROOKLYN
PARSONS BL	UNION TP	7	QUEENS
E 180TH ST	SOUTHERN BL	7	BRONX
ALBEMARLE RD	FLATBUSH AV	7	BROOKLYN
CONCOURSE VILLAGE E	E 165TH ST	7	BRONX
E 188TH ST	E FORDHAM RD	7	BRONX
BAINBRIDGE AV	E FORDHAM RD	7	BRONX
40TH RD	MAIN ST	7	QUEENS
9TH AV	W 30TH ST	6	MANHATTAN
2ND AV	E 21ST ST	6	MANHATTAN
BAYARD ST	BOWERY	6	MANHATTAN
ANN ST	BROADWAY	6	MANHATTAN
BROADWAY	W 35TH ST	6	MANHATTAN
8TH AV	W 36TH ST	6	MANHATTAN
5TH AV	46TH ST	6	BROOKLYN
3RD AV	ATLANTIC AV	6	BROOKLYN
ASHLAND PL	NAVY ST	6	BROOKLYN
LINDEN BL	VAN SICLEN AV	6	BROOKLYN

MAIN STREET:	CROSS STREET:	# OF ACCIDENT	BORO:
FULTON ST	UTICA AV	6	BROOKLYN
E 14TH ST	KINGS HW	6	BROOKLYN
NOSTRAND AV	ATLANTIC AV	6	BROOKLYN
NEW LOTS AV	PENNSYLVANIA AV	6	BROOKLYN
FLATLANDS AV	ROCKAWAY PW	6	BROOKLYN
NOSTRAND AV	PACIFIC ST	6	BROOKLYN
KINGS HW	CONEY ISLAND AV	6	BROOKLYN
EMPIRE BL	NEW YORK AV	6	BROOKLYN
DITMAS AV	E 21ST ST	6	BROOKLYN
1ST AV	E 62ND ST	6	MANHATTAN
FRESH POND RD	METROPOLITAN AV	6	QUEENS
UNIVERSITY AV	W FORDHAM RD	6	BRONX
E 225TH ST	WHITE PLAINS RD	6	BRONX
E TREMONT AV	JEROME AV	6	BRONX
BAINBRIDGE AV	E GUN HILL RD	6	BRONX
KISSENA BL	MAIN ST	6	QUEENS
5TH AV	E 34TH ST	6	MANHATTAN
103RD AV	117TH ST	6	QUEENS
MAIN ST	ROOSEVELT AV	6	QUEENS
8TH AV	W 23RD ST	6	MANHATTAN
CHAMBERS ST	HUDSON ST	6	MANHATTAN
7TH AV	BROADWAY	6	MANHATTAN
8TH AV	W 38TH ST	6	MANHATTAN
E BROADWAY	PIKE ST	6	MANHATTAN
MAIN ST	SANFORD AV	6	QUEENS
CANAL ST	MOTT ST	6	MANHATTAN
JAMAICA AV	WOODHAVEN BL	6	QUEENS
1ST AV	E 102ND ST	6	MANHATTAN
3RD AV	E 14TH ST	6	MANHATTAN
E 33RD ST	PARK AV SB	6	MANHATTAN

MAIN STREET:	CROSS STREET:	# OF ACCIDENT	BORO:
7TH AV	W 32ND ST	6	MANHATTAN
9TH AV	W 49TH ST	6	MANHATTAN
ST NICHOLAS AV	W 181ST ST	6	MANHATTAN
BEDFORD AV	FULTON ST	5	BROOKLYN
4TH AV	UNION ST	5	BROOKLYN
11TH ST	JAMAICA AV	5	QUEENS
NEW YORK AV	FOSTER AV	5	BROOKLYN
HILLSIDE AV	PARSONS BL	5	QUEENS
BROADWAY	KOSCIUSKO ST	5	BROOKLYN
CLARKSON AV	NOSTRAND AV	5	BROOKLYN
LIBERTY AV	PENNSYLVANIA AV	5	BROOKLYN
18TH AV	65TH ST	5	BROOKLYN
CHURCH AV	ROCKAWAY PW	5	BROOKLYN
3RD AV	E 55TH ST	5	MANHATTAN
4TH AV	BAY RIDGE AV	5	BROOKLYN
CORTELYOU RD	FLATBUSH AV	5	BROOKLYN
65TH ST	14TH AV	5	BROOKLYN
CATON AV	FLATBUSH AV	5	BROOKLYN
AVENUE J	CONEY ISLAND AV	5	BROOKLYN
101ST AV	103RD ST	5	QUEENS
NEVINS ST	SCHERMERHORN ST	5	BROOKLYN
234TH ST	LINDEN BL	5	QUEENS
BAY ST	ST MARKS PL	5	STATEN ISLAND
JAMAICA AV	PARSONS BL	5	QUEENS
BROOME ST	W BROADWAY	5	MANHATTAN
165TH ST	JAMAICA AV	5	QUEENS
82ND ST	ROOSEVELT AV	5	QUEENS
30TH AV	36TH ST	5	QUEENS
71ST AV	QUEENS BL	5	QUEENS
CHURCH AV	UTICA AV	5	BROOKLYN

MAIN STREET:	CROSS STREET:	# OF ACCIDENT	BORO:
FEATHERBED LA	MACOMBS RD	5	BRONX
LENOX AV	W 135TH ST	5	MANHATTAN
BROADWAY	W 207TH ST	5	MANHATTAN
CANAL ST	ELIZABETH ST	5	MANHATTAN
8TH AV	W 45TH ST	5	MANHATTAN
8TH AV	W 37TH ST	5	MANHATTAN
7TH AV	W 53RD ST	5	MANHATTAN
DAVIDSON AV	W TREMONT AV	5	BRONX
E FORDHAM RD	JEROME AV	5	BRONX
BAINBRIDGE AV	E 204TH ST	5	BRONX
BEAUMONT AV	E 187TH ST	5	BRONX
E TREMONT AV	SOUTHERN BL	5	BRONX
E 161ST ST	WALTON AV	5	BRONX
E FORDHAM RD	VALENTINE AV	5	BRONX
8TH AV	W 57TH ST	5	MANHATTAN
CRESTON AV	E 183RD ST	5	BRONX
5TH AV	E 46TH ST	5	MANHATTAN
FT WASHINGTON AV	W 173RD ST	5	MANHATTAN
9TH AV	W 41ST ST	5	MANHATTAN
5TH AV	E 42ND ST	5	MANHATTAN
LENOX AV	W 125TH ST	5	MANHATTAN
E GUN HILL RD	JEROME AV	5	BRONX
E GUN HILL RD	WHITE PLAINS RD	5	BRONX
E 149TH ST	GRAND CONCOURSE	5	BRONX
AVENUE Z	CONEY ISLAND AV	5	BROOKLYN
E 190TH ST	JEROME AV	5	BRONX
OCEAN AV	VOORHIES AV	5	BROOKLYN
CROTONA AV	E TREMONT AV	5	BRONX
E FORDHAM RD	WALTON AV	5	BRONX
CENTRE ST	GRAND ST	5	MANHATTAN

MAIN STREET:	CROSS STREET:	# OF ACCIDENT	BORO:
LENOX AV	W 132ND ST	5	MANHATTAN
6TH AV	W 23RD ST	5	MANHATTAN
E 65TH ST	LEXINGTON AV	5	MANHATTAN
AMSTERDAM AV	W 155TH ST	5	MANHATTAN
5TH AV	E 14TH ST	5	MANHATTAN
8TH AV	W 34TH ST	5	MANHATTAN
E 14TH ST	UNION SQ W	5	MANHATTAN
E 85TH ST	LEXINGTON AV	5	MANHATTAN
2ND AV	E 63RD ST	5	MANHATTAN
E 42ND ST	MADISON AV	5	MANHATTAN
8TH AV	W 146TH ST	5	MANHATTAN
3RD AV	E 34TH ST	5	MANHATTAN
5TH AV	E 12TH ST	5	MANHATTAN
3RD AV	E 77TH ST	5	MANHATTAN
BUFFALO AV	FULTON ST	5	BROOKLYN
AVENUE Y	NOSTRAND AV	5	BROOKLYN
AVENUE B	E 14TH ST	5	MANHATTAN
BROADWAY	E 14TH ST	5	MANHATTAN
1ST AV	E 27TH ST	5	MANHATTAN
7TH AV	W 35TH ST	5	MANHATTAN
E 42ND ST	LEXINGTON AV	5	MANHATTAN
AVENUE A	E 1ST ST	5	MANHATTAN
1ST AV	E 23RD ST	5	MANHATTAN
BROADWAY	W 57TH ST	5	MANHATTAN
BROAD ST	WATER ST	5	MANHATTAN
6TH AV	W 17TH ST	5	MANHATTAN
BROADWAY	W 43RD ST	5	MANHATTAN
CHAMBERS ST	CHURCH ST	5	MANHATTAN
E 106TH ST	LEXINGTON AV	5	MANHATTAN
61ST ST	8TH AV	4	BROOKLYN

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**TOP 20 ACCIDENT LOCATIONS
CITY WIDE
2000**

INTERSECTION	ACCNUMBER	BORO	CITYRANK
2ND AVENUE AND EAST 58 STREET	205	M	1
QUEENS BOULEVARD AND WOODHAVEN BOULEVARD	194	Q	2
FLATBUSH AVENUE AND GRAND ARMY PLAZA	188	K	3
BOWERY AND CANAL STREET	176	M	4
BRUCKNER BOULEVARD AND EAST 138 STREET	169	BX	5
FLATBUSH AVENUE EXTENSION AND PENNSYLVANIA AVENUE	140	K	6
LINDEN BOULEVARD AND SOUTHERN BOULEVARD	136	K	7
EAST FORDHAM ROAD AND WEST 42 STREET	130	BX	8
8TH AVENUE AND WEST 57 STREET	129	M	9
3RD AVENUE AND EAST 57 STREET	128	M	10
BROOKVILLE BOULEVARD AND ROCKAWAY BOULEVARD	126	Q	11
8TH AVENUE AND WEST 34 STREET	117	M	12
2ND AVENUE AND EAST 57 STREET	114	M	13
ADAMS STREET AND TILLARY STREET	111	K	14
DELANCEY STREET AND ESSEX STREET	109	M	15
2ND AVENUE AND EAST 128 STREET	109	M	15
EASTERN PARKWAY AND UTICA AVENUE	106	K	17
10TH AVENUE AND WEST 41 STREET	105	M	18
2ND AVENUE AND EAST 36 STREET	105	M	18
ALLEN STREET AND DELANCEY STREET	103	M	20
7TH AVENUE AND WEST 34 STREET	103	M	20
BRUCKNER BOULEVARD AND WHITE PLAINS ROAD	103	BX	20

**DATA SOURCE: NYPD
ANALYSIS: SAFETY PROGRAMS**

TRAFFIC AND PARKING APPENDIX 2

Highway Capacity Manual 2000 Intersection Level of Service Criteria

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APPENDIX 2: Highway Capacity Manual 2000 Intersection Level of Service Criteria

Level of Service Criteria at Signalized Intersections

LOS	Control Delay per Vehicle (s/veh)
A	≤ 10
B	> 10-20
C	> 20-35
D	> 35-55
E	> 55-80
F	> 80

Source: TRB, *Highway Capacity Manual 2000*

Level of Service Criteria at Unsignalized Intersections

LOS	Average Control Delay (s/veh)
A	0-10
B	> 10-15
C	> 15-25
D	> 25-35
E	> 35-50
F	> 50

Source: TRB, *Highway Capacity Manual 2000*

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TRAFFIC AND PARKING APPENDIX 3

Expanded List of Previously Researched Trip Generation and Rates

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APPENDIX 3: Expanded List of Previously Researched Trip Generation Rates

Land Use	Weekday Daily Person Trips	Peak Hour Percentage		
		AM 8-9	Midday 12-1	PM 5-6
Academic-University	26.6 per 1,000 gsf	16.0	N/A	26.0
Cineplex	3.26 per seat	0.0	3.0	8.0
Express Package Terminal-Truck Trips	4.0 per van position	21.0	2.2	2.2
Express Package Terminal-Employee Trips	3.59 per 1,000 gsf	5.9	4.4	0.2
Health Club	44.7 per 1,000 gsf	4.0	9.0	5.0
Home Improvement Superstore	35.05 per 1,000 gsf	4.2	13.4	12.2
Hotel	9.4 per room	7.5	14.4	12.8
Office (Corporate Headquarters) – All Trips	13.0 per 1,000 gsf	14.2	17.0	15.5
Office (Multi-Tenant) – All Trips	18.0 per 1,000 gsf	11.8	15.0	13.7
Office – Visitors Only	3.0 per 1,000 gsf	14.7	20.0	12.9
Regional Park	139 per acre	7.0	17.0	14.0
Residential	8.075 per DU	9.1	4.7	10.7
Restaurant	173 per 1,000 gsf	1.0	17.2	7.7
Retail – Boutique (Manhattan Below 60th Street)	205 per 1,000 gsf	1.0	21.6	9.6
Retail – Other (Consult ITE) ¹				
Television Studio	10 per 1,000 gsf	11.8	15.0	10.3

Notes:
 N/A – Not Available
¹-Institute of Transportation Engineers' *Trip Generation Manual* rates may be consulted for many retail land uses: Destination Retail (Land Use Code 815), Discount Club (861), and Shopping Center (820).
 Person-trips rates are derived from the average ITE vehicle-trip rates, assuming a vehicle occupancy rate of 2.0 persons per vehicle and 95% of trips are vehicle trips.

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AIR QUALITY APPENDIX

2001 Technical Manual
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AIR QUALITY APPENDIX 1

**Guidelines for Evaluating
Air Quality Impacts from Parking Garages**

**2001 Technical Manual
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AIR QUALITY APPENDIX 1

Guidelines for Evaluating Air Quality Impacts from Parking Garages

For air quality purposes, a parking garage is defined as a parking facility that would be totally (or almost totally) enclosed. This type of facility would require mechanical ventilation to limit the carbon monoxide (CO) concentrations within the garage to levels less than those mandated by the New York City Building Code. Table 1 displays the estimated hourly average ins and outs over a 24-hour period for a proposed auto parking garage. A sample air quality analysis is also provided in the attachment for potential air quality impacts from ventilated exhaust CO emissions for an auto parking garage that would start operations in 1997. This analysis does not use the most up-to-date MOBILE program or related emission factors, but the methodology used is still applicable.

Page 1 of the attachment displays all input parameters that are required to estimate the maximum CO emission rates and concentrations within the parking garage in 1997. CO emission factors and background values are reported at the top of the page. In almost all cases, maximum hourly CO emission rates within the facility will be calculated for the time period with the maximum number of departing autos in an hour, since departing autos should be assumed to be "cold" and arriving cars should usually be assumed to be "hot" as part of the recommended procedures for estimating CO emissions for parking facilities. ("Cold" autos emit CO at considerably higher rates than "hot" autos, as shown by the CO emission factors listed.) Likewise, maximum hourly CO emission rates over a consecutive 8-hour period will normally be computed for the 8-hour time period that averages the largest number of departing autos per hour. Maximum hourly and 8-hour average CO emission rates should be determined based on the ins/outs (for the respective time averaging periods) and the mean traveling distance within the garage. The analysis should also assume that all departing autos would idle for one minute before travelling to the exits of the garage, and all arriving and departing autos would travel at 5 mph within the garage. The equations and definitions of the parameters used to determine the emission rates exhausted through the vents and the maximum CO concentrations within the garage are also presented on page 1.

Page 2 of the attachment displays the calculations involved in determining the off-site impacts from the CO exhausted through the garage vent(s). These estimates of off-site CO impacts are based on equations pertaining to the dispersion of pollutants from a stack (EPA's *Workbook of Atmospheric Dispersion Estimates, AP-26*, pg. 6, equations 3.3 and 3.4). The initial horizontal and vertical distributions, $\sigma_y(0)$ and $\sigma_z(0)$, respectively, should be assumed to be equal and calculated by setting the CO concentration at the exit of the vent equal to the CO level within the facility. The sample analysis displays the recommended procedures for estimating 8-hour CO impacts at a receptor near the vent (5 feet from the vent, 6 feet below the midpoint height of the vent) and at a receptor across a street on the far sidewalk from the vent (50 feet away, also 6 feet below the vent midpoint). Page 3 displays contributions from on-street CO emissions to the far sidewalk receptor in this example that were calculated conservatively with a factor (307.7) that yields the maximum predicted impacts (which could be calculated by refined mathematical modeling), when multiplied by the on-street CO emission rate in grams/meter-second. Cumulative CO concentrations at the far sidewalk should be calculated by adding together the contributions from the garage exhaust vent, on-street sources, and background levels. An acceptable alternative method to the procedures detailed above would be to use only the peak hourly CO emissions to calculate the CO emission rates and concentrations at the vent outlet. This alternative procedure would yield very conservative estimates of off-site CO impacts.

Table 1

1997 GARAGE INS/OUTS

HOUR	IN	OUT
12-1	1	1
1-2	1	0
2-3	0	0
3-4	0	0
4-5	0	1
5-6	1	5
6-7	5	8
7-8	7	9
8-9	14	31
9-10	17	8
10-11	18	11
11-12	15	12
12-1	31	32
1-2	14	11
2-3	10	10
3-4	10	11
4-5	13	16
5-6	35	30
6-7	17	20
7-8	13	10
8-9	9	6
9-10	1	2
10-11	1	0
11-12	1	0
TOTAL	234	234

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Simple Mechanically Ventilated Parking Garage Analysis:

1907 Mobile 4.3 CO Emission Factors: 1907
 Cold Idle @ 45F (CI): 779.91 G/A-HR CO background
 Simple Cold Auto @ 45F (CA): 143.08 G/A-HR 1-HR 6.7 PPM
 Simple Hot Auto @ 45F (HA): 23.73 G/A-HR 8-HR 2.8 PPM

PERIOD	INS	OUTS	PERIOD	INS	OUTS	GARAGE	TRAV. DIS.	MEAN	PEAK	8-HR	CONC. W/O	PEAK 8-HR	CONC. W/O	MAX 1-HR	CONC. W/O	MAX 8-HR	CONC. W/O
						GSF	(FEET)	(G/SEC)	HOURLY	AVG. ER	(PPM)	(PPM)	(PPM)	(PPM)	(PPM)	(PPM)	(PPM)
1845-1PM	31	32	11AM-7PM	18.1	17.8	48220	300	0.200	0.112	7.60	4.20	13.30	7.10				

where: maximum hour is 1-hour period with largest number of autos departing
 maximum 8-hour period is usually the 8-hour period with largest average number of departing autos over 8 hours
 Garage GSF - total gross square feet of garage area, where garage area does not include mechanical areas
 mean travel distance - conservative estimate (about two-thirds of the longest travel distance within the facility) of average travel distance for a typical vehicle entering/exiting the facility
 Max 1-hour & 8-hour average ER - maximum hourly average CO emission rates within the facility for these respective time averaging periods

Max hour ER:

$$(max\ hr\ autos\ out) * ((CI/60) + (CA) * (mean\ travel\ distance/5280)) / 3600 + (max\ hr\ autos\ in) * 1.1A * (mean\ travel\ distance) / (5280 * 3600)$$

8 hour average ER:

$$(max\ 8\ hr\ autos\ out) * ((CI/60) + (CA) * (mean\ travel\ distance/5280)) / 3600 + (max\ 8\ hr\ autos\ in) * 1.1A * (mean\ travel\ distance) / (5280 * 3600)$$

Max 1-hour & 8-hour concentration without background - CO concentrations calculated within the facility based on respective emission rates and New York City building code minimum ventilation rate of 1 cubic foot per minute per gross square feet of garage area for the respective time averaging periods

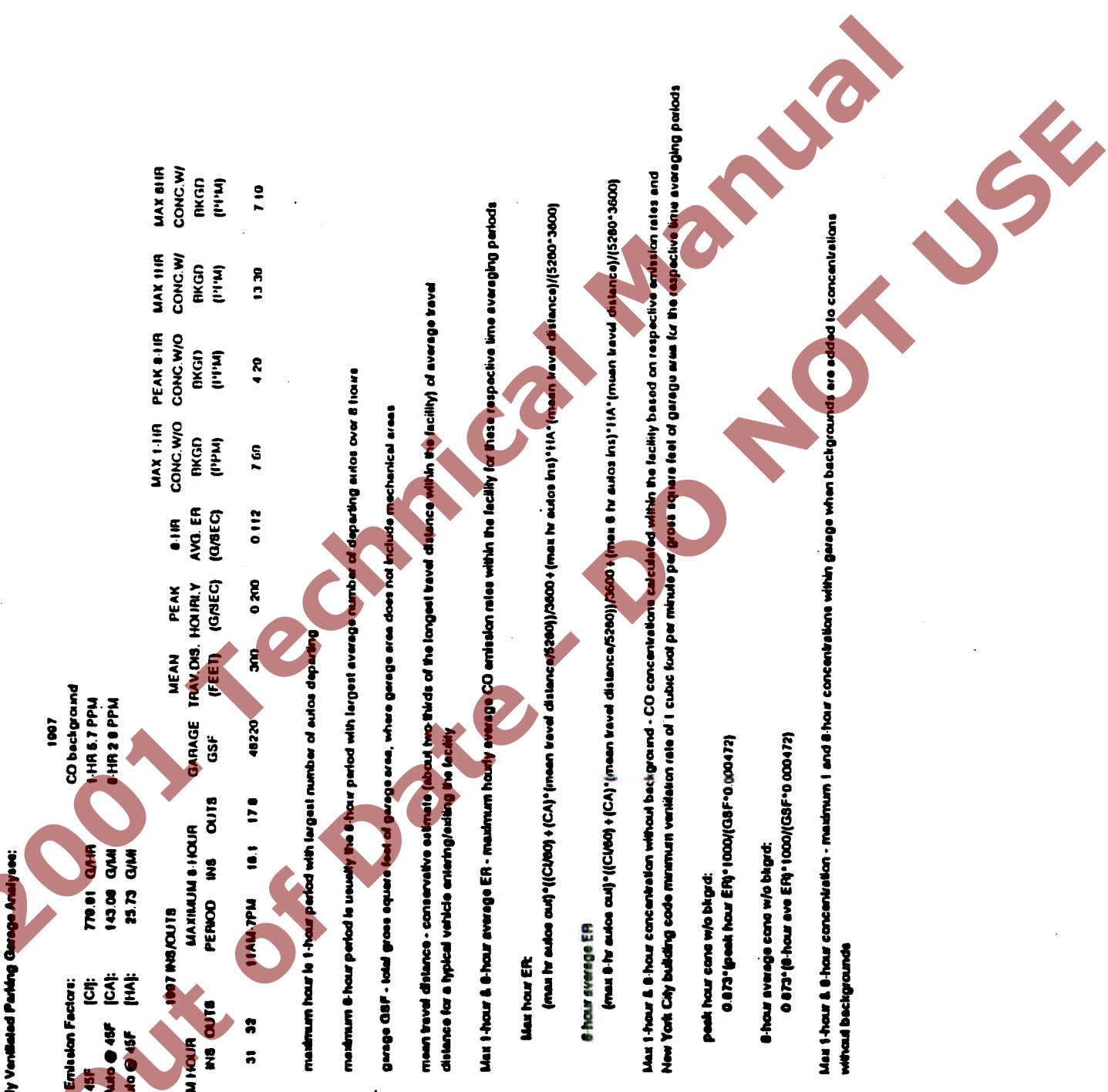
peak hour conc w/o bgnd:

$$0.873 * (peak\ hour\ ER) * 1000 / (GSF * 0.000472)$$

8-hour average conc w/o bgnd:

$$0.873 * (8\ hour\ ave\ ER) * 1000 / (GSF * 0.000472)$$

Max 1-hour & 8-hour concentration - maximum 1 and 8-hour concentrations within garage when backgrounds are added to concentrations without backgrounds



Calculation of Cumulative Carbon Monoxide Impacts from Garage
and Adjacent Street Emissions

ASSUMPTIONS: 2 Vents (since it is a relatively large garage, smaller garages may only warrant 1 vent)

Middle of Vent is 12' above local grade

Receptor height is 6', at a distance of 5' from vent

$$\chi(0) = Q / \pi * \sigma_y(0) * \sigma_z(0)$$

1997

8-HOUR CO ER PER VENT = $0.112/2 = 0.056$ g/sec = Q

8-HOUR CO CONCENTRATION = 4.29 PPM = 0.0049 g/m³

8-HOUR CO BKGD = 2.9 PPM

8-HOUR PERSISTENCE FACTOR - 8-HR PF = 0.70

Solve for initial horizontal + vertical distributions:

$$\text{Let } \sigma_z(0) = \sigma_y(0)$$

$$0.0049 = 0.056 / \pi * (\sigma_y(0))^2$$

$$\text{Therefore } \sigma_y(0) = 1.9\text{m}$$

at 5' (1.52m) from vent, 6'(H = 1.83m) below vent height:

$$\sigma_y(1.52) = 0.16 * 1.52 + 1.9 = 2.14\text{m}$$

$$\sigma_z(1.52) = 0.14 * 1.52 + 1.9 = 2.11\text{m}$$

$$8\text{-hr } \chi(1.52) = (8\text{-hr PF}) * Q * (\exp(-0.5 * (H/\sigma_z(1.52))^2)) / \pi * \sigma_y(1.52) * \sigma_z(1.52)$$

$$\text{Therefore, } \chi(1.52) = 0.00190 \text{ g/m}^3 = 1.7 \text{ PPM}$$

at 50' (15.24m) from vent, 6'(H = 1.83m) below vent height:

$$\sigma_y(15.24) = 0.16 * 15.24 + 1.9 = 4.3\text{m}$$

$$\sigma_z(15.24) = 0.14 * 15.24 + 1.9 = 4.0\text{m}$$

$$8\text{-hr } \chi(15.24) = (8\text{-hr PF}) * Q * (\exp(-0.5 * (H/\sigma_z(15.24))^2)) / \pi * \sigma_y(15.24) * \sigma_z(15.24)$$

$$\text{Therefore, } \chi(15.24) = 0.000653 \text{ g/m}^3 = 0.6 \text{ PPM}$$

Highest On-Street Emissions

	g/mi-hr	g/m-sec
WB adjacent street	6423	0.00111
EB adjacent street	3272	0.00056
Total	9695	0.00167

Maximum Impacts from line source:

$$307.7 * (8\text{-hr Persistence Factor}) * 0.00167 = 0.36 \text{ PPM}$$

Total 8-hr CO Concentration

$$\text{@ receptor on opposite sidewalk} = 0.6 + 0.36 + 2.9 = 3.8 \text{ PPM}$$

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AIR QUALITY APPENDIX 2

**Guidelines for Evaluating
Air Quality Impacts from Parking Lots**

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AIR QUALITY APPENDIX 2

Guidelines for Evaluating Air Quality Impacts from Parking Lots

For air quality purposes, a parking lot is defined as a parking facility that would be an at-grade lot, exposed to the ambient air. Table 1 displays the estimated hourly average ins and outs over a 24-hour period for a proposed auto parking lot. A sample analysis of the potential air quality impacts from CO emissions emitted by an auto parking lot that would start operations in 1997 is provided in the attachment. This analysis does not use the most up-to-date MOBILE program or related emission factors, but the methodology used is still applicable.

Figure 1 displays the overall dimensions of a proposed parking lot. Page 1 of the attachment displays all input parameters that are required to estimate the maximum CO emission rates within the parking lot in 1997. CO emission factors and background values are reported at the top of the page. In almost all cases, maximum hourly CO emission rates within the facility will be calculated for the time period with the maximum number of departing autos in an hour, since departing autos should be assumed to be "cold" and arriving cars should usually be assumed to be "hot" as part of the recommended procedures for estimating CO emissions for parking lots. ("Cold" autos emit CO at considerably higher rates than "hot" autos, as shown by the CO emission factors listed.) Likewise, maximum hourly CO emission rates over a consecutive 8-hour period will normally be computed for the 8-hour time period that averages the largest number of departing autos per hour. Maximum hourly and 8-hour average CO emission rates should be determined based on the ins/outs (for the respective time averaging periods) and the mean traveling distance within the facility. The analysis should also assume that all departing autos would idle for one minute before travelling to the exits of the lot, and all arriving and departing autos would travel at 5 mph within the parking lot. The equations and definitions of the parameters used to determine the CO emission rates within the parking area are identical to those found in "Guidelines for Evaluating Air Quality Impacts from Parking Garages" (Appendix 1).

Equations 1, 2, and 3 display the calculations involved in determining the off-site impacts from CO emitted within the parking lot. These estimates of off-site CO impacts are based on EPA's guidelines pertaining to the dispersion of pollutants from a parking lot (*Guidelines for Air Quality Maintenance Planning and Analysis Volume 9 (Revised): Evaluating Indirect Sources*, p. 92, equations 35 and 36). Definitions of the various parameters in these equations are also provided on page 1 of the attachment. The sample analysis displays the recommended procedures for estimating 8-hour CO impacts at a pedestrian-height sidewalk receptor 6 feet from the lot and at a receptor across a street on the far sidewalk from the vent (62 feet away). On-street CO emissions contributions to the far sidewalk receptor in this example were calculated conservatively with a factor (307.7) that yields the maximum predicted impacts (which could be calculated by refined mathematical modeling), when multiplied by the on-street CO emission rate in grams/meter-second. Cumulative CO concentrations at the far sidewalk should be calculated by adding together the contributions from the parking lot, on-street sources, and background levels. An acceptable alternative method to the procedures detailed above would be to use only the peak hourly CO emissions to calculate the CO emission rates within the facility and off-site 8-hour CO impacts. This alternative procedure would yield very conservative estimates of off-site CO impacts.

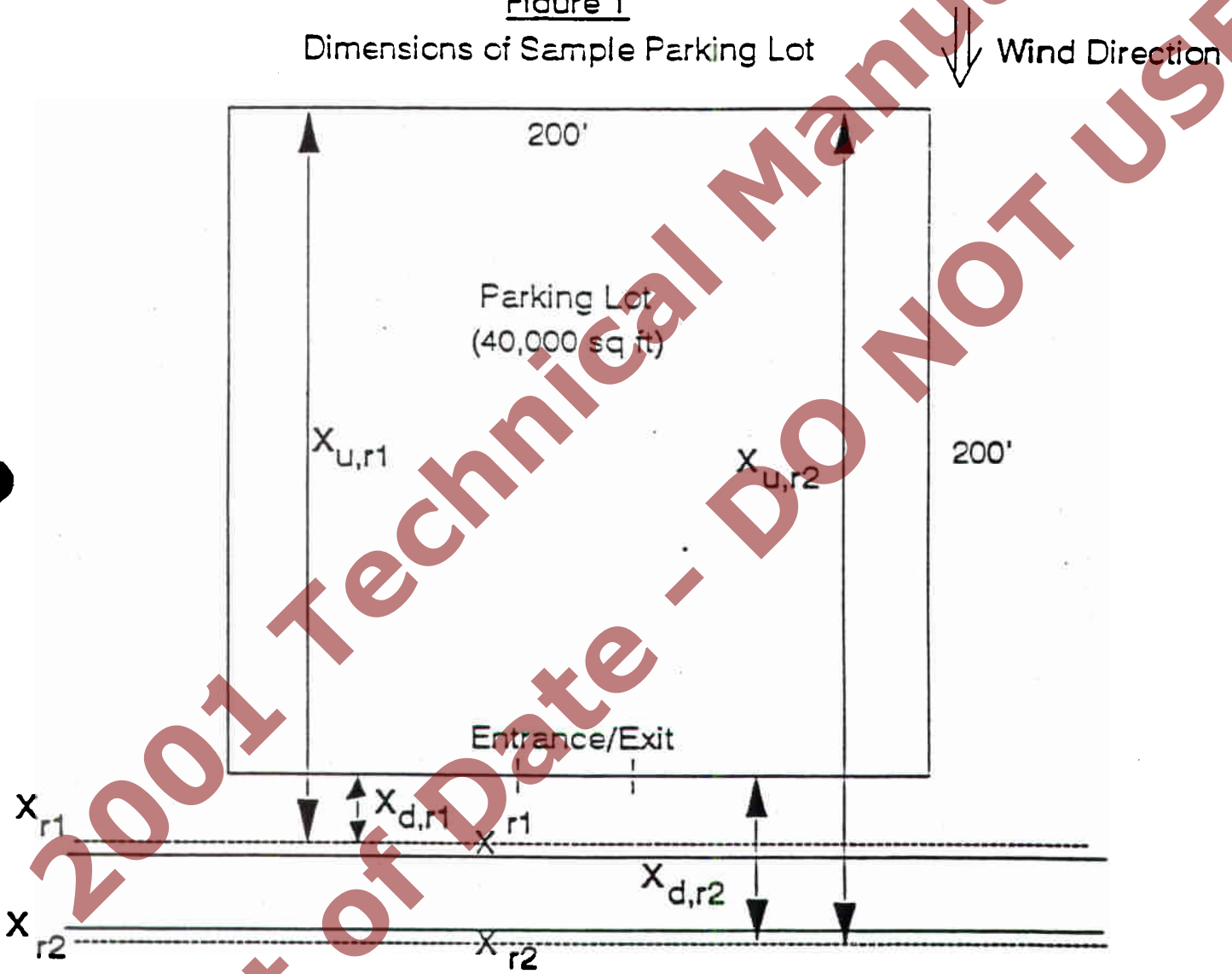
Table 1

1997 PARKING LOT INS/OUT

HOUR	IN	OUT
12-1	1	1
1-2	1	0
2-3	0	0
3-4	0	0
4-5	0	1
5-6	1	5
6-7	3	8
7-8	26	10
8-9	69	20
9-10	16	3
10-11	10	5
11-12	10	5
12-1	13	20
1-2	7	8
2-3	16	19
3-4	28	34
4-5	30	81
5-6	36	40
6-7	24	29
7-8	16	19
8-9	9	7
9-10	1	3
10-11	1	1
11-12	1	0
TOTAL	319	319

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Figure 1
Dimensions of Sample Parking Lot



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Sample Parking Lot Analyses:

1997 Mobile 4.1 CO Emission Factors:

Cold Idle @ 30F [CI]: 1028.61 G/HR
 5mph Cold Auto @ 30F [CA]: 188.17 G/MI
 5mph Hot Auto @ 30F [HA]: 32.13 G/MI

1997
 CO background
 1-HR 5.7 PPM
 8-HR 2.9 PPM

MAXIMUM HOUR PERIOD	1997 INS/OUTS		MAXIMUM 8-HOUR PERIOD			PARKING LOT GSF	MEAN TRAV.DIS. (FEET)	PEAK HOURLY ER (G/SEC)	8-HR AVG. ER (G/SEC)	Qa, 8-hr
	INS	OUTS	INS	OUTS	INS						OUTS
4-5PM	30	81	12-8PM	21.3	31.3	40,000	201	0.557	0.219	0.000059

$$xu/Q_a = \frac{0.8}{a(1-b)} (r_u^{1-b} - r_d^{1-b}) * PF \quad (1)$$

$$r_u = x_u + x_o \quad (2)$$

$$r_d = x_d + x_o \quad (3)$$

where:

- x - 8-hour CO concentration from parking lot emissions (g/m³)
- u - wind speed (= 1 meter/sec)
- Q_a - CO emissions in parking lot per unit area of lot (g/m²-sec)
- a, b - empirical constants (for almost all applications, a = 0.50, b = 0.77)
- r_u - effective distance from the receptor to the upwind edge of the parking lot (meters)
- r_d - effective distance from the receptor to the downwind edge of the parking lot (meters)
- x_u - measured distance from the receptor to upwind edge of the parking lot (meters)
- x_d - measured distance from the receptor to downwind edge of the parking lot (meters)
- x_o - virtual distance used to affect an initial vertical mixing of CO emissions (x_o = 19.9m)
- PF - 8-hour meteorological persistence factor (= 0.7)

Since $x_{u,r1} = 62.8\text{m}$ (206 ft) & $x_{d,r1} = 1.8\text{m}$ (6 ft)
 $x_{u,r2} = 79.9\text{m}$ (262 ft) & $x_{d,r2} = 18.9\text{m}$ (62 ft)

Therefore $\chi_{r1} = 0.00021 \text{ g/m}^3 = 0.18 \text{ PPM}$
 $\chi_{r2} = 0.00016 \text{ g/m}^3 = 0.14 \text{ PPM}$

8-hr Total CO Conc @ r1 - $\chi_{r1} + \text{bkgrd} = 0.18 + 2.9 = 3.08 \text{ PPM}$

	ER	
	g/mi-hr	g/m-sec
WB adjacent street	6423	0.00111
EB adjacent street	3272	0.00056
Total	9695	0.00167

On-street - $307.7 * \text{PF} * \text{ER} = 0.36 \text{ PPM}$

8-hr Total CO Conc @ r2 - $\chi_{r2} + \text{On-street} + \text{bkgrd} = 0.14 + 0.36 + 2.9 = 3.4 \text{ PPM}$

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AIR QUALITY APPENDIX 3

**Guidelines for Evaluating Air Quality Impacts
from Multilevel Naturally Ventilated Parking Facilities**

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AIR QUALITY APPENDIX 3 Guidelines for Evaluating Air Quality Impacts from Multilevel Naturally Ventilated Parking Facilities

A multilevel parking facility with at least 3 partially open sides is naturally ventilated by the ambient air. A sample analysis of the potential air quality impacts from carbon monoxide (CO) emissions from this type of facility that would start operations in 1997 is provided in the attachment. In this example, maximum hourly CO emissions will be used to conservatively estimate 8-hour CO impacts adjacent to the facility. The 5-6 PM period would have the largest number of departing autos and the largest hourly estimate of CO emissions in this sample analysis for a proposed 7-level naturally ventilated auto parking facility. This analysis does not use the most up-to-date MOBILE program or related emission factors, but the methodology used is still applicable.

Figure 1 provides a side view of a sample 7-level open-sided facility, which would be built above a retail use. Figure 2 displays a top view applicable to each parking level. The proposed facility would have several entrances and exits. Page 1 of the attachment displays all input parameters required to estimate the maximum CO emission rates within the parking lot in 1997. CO emission factors and background values are reported at the top of the page. The analysis should assume that all departing autos would idle for one minute before traveling to the exits for each level, and all arriving and departing autos would travel at 5 mph within the parking facility. The equations and definitions of the parameters used to determine the CO emission rates within the parking area and off-site CO impacts are very similar to those found in "Guidelines for Evaluating Air Quality Impacts from Parking Lots" (Appendix 2), with some modifications.

Estimates of CO emission rates for each level should consist of two components: vehicles arriving/departing the level, and "excess" vehicles that are passing through a level, destined toward a higher or lower parking level within the facility. In this example, the total number of autos traveling in and out of the structure in the 5-6 PM hour have been divided by the number of parking levels (i.e., 7) to determine the average number of vehicles parking or leaving each level in this hour (e.g., a total of 679 departures averages out to 97 departures per level). Q_{EM} represents the CO emission estimates per unit area for vehicles originating from or destined for each level. Excess CO emissions for each level should be calculated based on the number of excess autos traversing through the parking level and the distance traveled by such vehicles. As shown in the example, the number of excess vehicles increases to a maximum at level 1. Q_{EX} represents the excess emissions per level, and Q_{EXM} is Q_{EX} divided by the floor area of the respective parking level. Q_{EMM} is defined as the total emissions per unit area per level, and is the sum of Q_{EXM} and Q_{EMM} for each parking level.

The sample analysis displays the recommended procedures for estimating 8-hour CO impacts at a pedestrian-height sidewalk receptor 70 feet from the facility. Equations 1, 2, and 3 are the calculations involved in determining the off-site impacts from CO emitted from an at-grade parking lot. Equation 4 is the recommended correction factor to adjust CO impacts calculated with Q_{EMM} and equation 1 (i.e., χ center line) for each parking level to a pedestrian height receptor. The equation for this height correction factor ($\bar{\chi}$) is based on the correction term for elevated point sources in EPA's *Workbook of Atmospheric Dispersion Estimates, AP-26* (pg. 6, equation 3.3). Height correction factors for each level should be based on the difference between pedestrian height (6 feet) and the respective parking level elevation, and should be multiplied to the χ centerline calculated for each level. The table at the bottom of page 2 of the attachment shows the result of these products for each level of the parking facility in this example. Page 3 displays on-street CO emissions contributions to the receptor in this example, which were calculated with a factor (307.7) that yields the maximum predicted impacts (which could be calculated by refined mathematical modeling), when multiplied by the on-street CO emission rate in grams/meter-second. Cumulative CO concentrations at this receptor should be calculated by adding together the contributions from the parking facility, on-street sources and background levels.

An acceptable alternative method to the procedures detailed above would be to use the hourly average CO emissions over the continuous 8-hour period with the largest CO emissions to calculate the CO emission rates within the facility and off-site 8-hour CO impacts. This alternative procedure should consider whether or not a larger proportion of vehicles would use the lower levels over an 8-hour average, as opposed to the equal averaging procedure used with the peak hourly emissions. The procedure employed in this sample analysis did not have to take this into account, since maximum hourly emissions were conservatively applied to estimate CO emission rates over an 8-hour period.

Figure 1

Side View

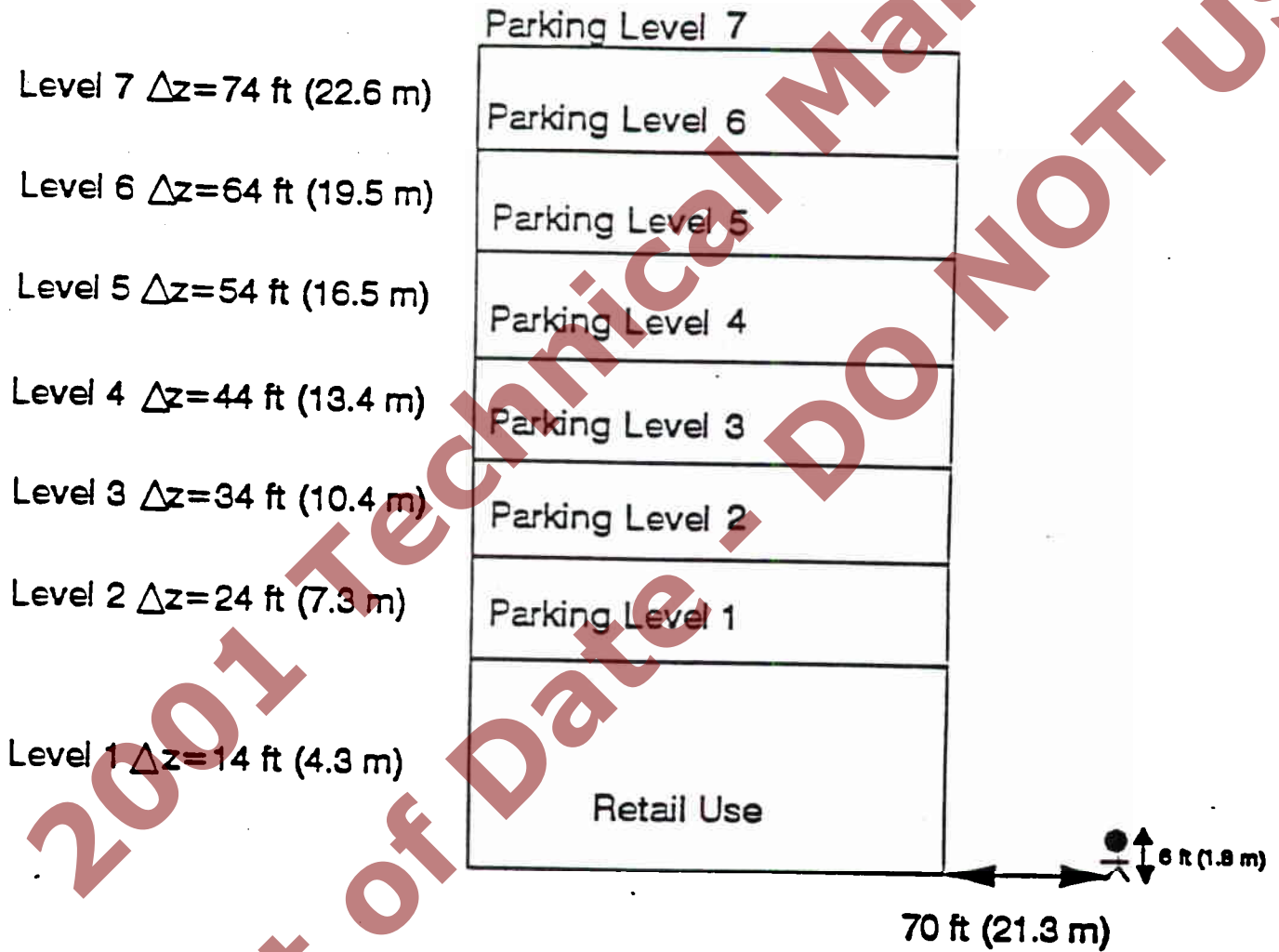
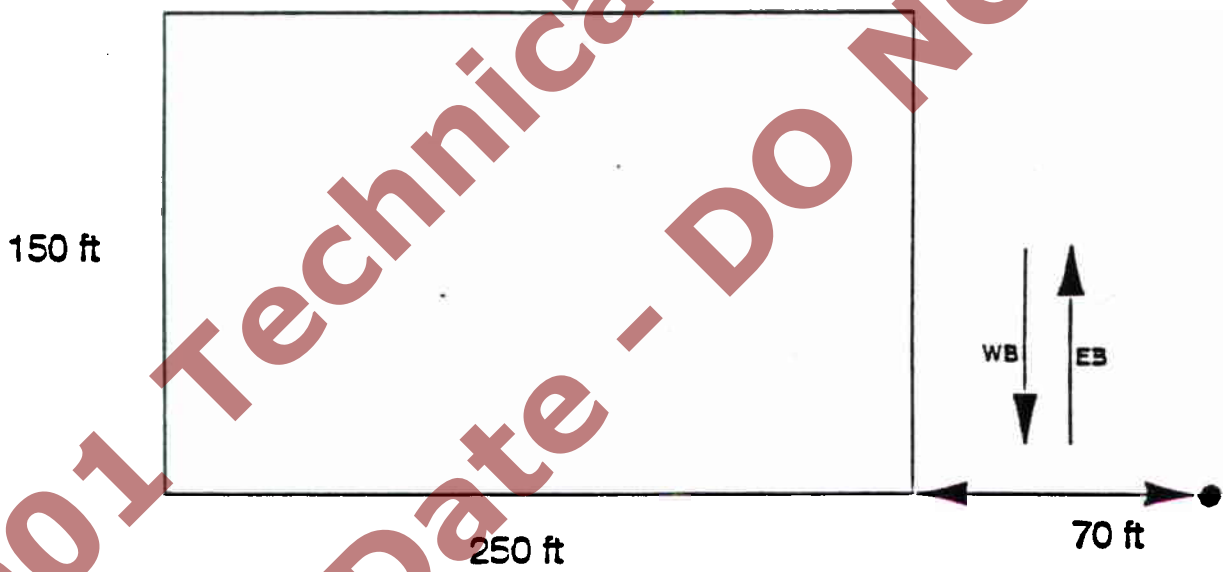


Figure 2

Top View



Sample Multi-Level Naturally Ventilated Parking Facility Analysis:

1997 Mobile 4.1 CO Emission Factors:

Cold Idle @ 30F [CI]: 1028.61 g/hr
 5mph Cold Auto @ 30F [CA]: 188.17 g/mi
 5mph Hot Auto @ 30F [HA]: 32.13 g/mi

1997 CO background
 1-HR 5.7 PPM
 8-HR 2.9 PPM

1997 INS/OUTS

MAXIMUM HOUR PERIOD	MAXIMUM HOUR PERIOD		PARKING LOT GSF		MEAN TRAV. DIS. (FEET)	PEAK HOURLY ER PER LEVEL (G/SEC)	Q _{a,lv1} (g/m ² -sec)	
	INS	OUTS	INS	OUTS				
5-6PM	301	679	43	97	37,500	270	0.741	0.000213

Emissions from excess vehicles:

$$Q_{exc} = (N_{veh,dep} * [CA] * \Delta L + N_{veh,arr} * [HA] * \Delta L) / 3600$$

$$Q_{a,exc} = Q_{exc} / GSF$$

where: $N_{veh,dep}$ - number of excess departing autos from upper levels at each floor
 $N_{veh,arr}$ - number of excess arriving autos from lower levels at each floor
 ΔL - travel distance between floors (= 120 ft)

Level	Excess Vehicles		Q _{exc}	Q _{a,exc}	Q _{a,lv1}	Q _{a,tot}
	Ins	Outs				
7	-	-	-	-	2.13 x 10 ⁻⁴	2.13 x 10 ⁻⁴
6	43	97	0.12	3.56 x 10 ⁻⁵	2.13 x 10 ⁻⁴	2.48 x 10 ⁻⁴
5	86	194	0.25	7.12 x 10 ⁻⁵	2.13 x 10 ⁻⁴	2.84 x 10 ⁻⁴
4	129	291	0.37	1.07 x 10 ⁻⁴	2.13 x 10 ⁻⁴	3.19 x 10 ⁻⁴
3	172	388	0.50	1.42 x 10 ⁻⁴	2.13 x 10 ⁻⁴	3.55 x 10 ⁻⁴
2	215	485	0.62	1.78 x 10 ⁻⁴	2.13 x 10 ⁻⁴	3.91 x 10 ⁻⁴
1	258	582	0.74	2.13 x 10 ⁻⁴	2.13 x 10 ⁻⁴	4.26 x 10 ⁻⁴

$$\chi_u/Q_a = \frac{0.8}{a(1-b)} (r_u^{1-b} - r_d^{1-b}) * PF \tag{1}$$

$$r_u = x_u + x_o \tag{2}$$

$$r_d = x_d + x_o \tag{3}$$

with variables and constants as defined previously

Since $x_u = 97.5m$ (320 ft) & $x_d = 21.3m$ (70 ft),

Therefore $\chi_u/Q_{a,tot} = 3.099$

Vertical Diffusion Correction:

$$\bar{x} = \exp(-0.5 * (\Delta z / \sigma_z)^2) \quad (4)$$

- where:
- \bar{x} - correction factor for difference between height of each parking level and pedestrian height
 - σ_z - urban vertical dispersion coefficient for Pooler-McElroy stability class D
 - σ_z - $0.14 * x$, where x is the distance between the edge of the parking area and the receptor site (in meters)
 - Δz - difference in height between parking lot level and pedestrian height (= 6 ft)

since x = 70 ft = 21.3 m,

therefore $\sigma_z = 2.98$ and

$$\bar{x} = \exp(-0.5 * (\Delta z / 2.98)^2)$$

Level	Δz (ft)	Δz (m)	\bar{x}
1	14	4.3	0.35
2	24	7.3	0.050
3	34	10.4	0.0023
4	44	13.4	0.000041
5	54	16.5	= 0
6	64	19.5	= 0
7	74	22.6	= 0

Level	$Q_{a,tot}$	\bar{x} Center Line	\bar{x}	g/m3 @ receptor	PPM	PF*PPM
7	2.13×10^{-4}	0.00066	= 0	= 0	0.000	0.000
6	2.48×10^{-4}	0.00077	= 0	= 0	0.000	0.000
5	2.84×10^{-4}	0.00089	= 0	= 0	0.000	0.000
4	3.19×10^{-4}	0.00100	0.000041	$4.08E \times 10^{-8}$	0.000	0.000
3	3.55×10^{-4}	0.00111	0.0023	$2.55E \times 10^{-6}$	0.002	0.001
2	3.91×10^{-4}	0.00122	0.05	$6.09E \times 10^{-5}$	0.053	0.037
1	4.26×10^{-4}	0.00133	0.35	$4.65E \times 10^{-4}$	0.407	0.285
					total	0.32 = X_{tot}

	ER	
	g/mi-hr	g/m-sec
WB adjacent street	6423	0.00111
EB adjacent street	3272	0.00056
Total	9695	0.00167

$$\text{On-street} = 307.7 * \text{PF} * \text{ER} = 0.36 \text{ PPM}$$

$$\text{8-hr Total CO Conc} = \chi_{\text{tot}} + \text{On-street} + \text{bkgrd} = 0.32 + 0.36 + 2.9 = 3.6 \text{ PPM}$$

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AIR QUALITY APPENDIX 4

**Guidelines for Performing Vehicle Classification Surveys
for Air Quality Analyses**

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AIR QUALITY APPENDIX 4

Guidelines for Performing Vehicle Classification Surveys for Air Quality Analyses

Collection of vehicle classification data for use in an air quality analysis should be performed according to the following general guidelines, to provide accurate and adequate descriptions of the vehicle mix required by the MOBILE models used to estimate emissions from motor vehicles. To get the most accurate estimate of traffic conditions, vehicle classification data should be taken concurrently with other traffic data collection efforts. Vehicle classification surveys should be performed at or near any sites where mobile source air quality analyses are performed.

1. Three good days of surveys for the midweek AM, midday (if necessary), and PM peak periods. Field surveyors should distinguish among autos, taxis, light duty trucks, heavy duty gas trucks, and heavy duty diesel vehicles. Buses should be considered to be heavy duty diesel vehicles.

2. If a weekend air quality analysis is required, surveys should be performed for at least one day for the weekend peak hour.

3. Field observers should use the following criteria to distinguish between light-duty trucks and heavy-duty trucks:

Light-duty trucks: vans, ambulances, pickup trucks, all trucks with 4 wheels.

Heavy-duty trucks: Basically all vehicles with 6 or more wheels. (Note: six wheels can be on 2- or 3-axle vehicles.)

The field observer should be acquainted with the stacks associated with heavy-duty diesel trucks in order to distinguish them from heavy-duty gas trucks. Light-duty gas trucks should be divided into two groups (LDGT 1 and LDGT 2) based on local registration data. The registered split between LDGT 1 and LDGT 2 is 73 percent to 27 percent, respectively, at the time these guidelines were prepared. DEC or DEP can be contacted to determine if this split (73/27) is still appropriate.

4. The percentage of taxis for each link could be divided into fleet medallion (FM) and non-fleet medallion (NFM) taxis based on the ratio between FM and NFM listed in DEP's Report #34 (approximately 3 FM for every 1 NFM). Since field observers usually cannot distinguish between non-medallion (NM) taxis and private autos when taking surveys, the NM taxi fraction as listed in Report #34 could be subtracted from the auto fraction for each link, or instead, the NM taxi fraction could be treated as autos in the emissions calculations. The emissions for light-duty gas autos can then be calculated using the latest approved MOBILE model with these four distinct classifications (autos, FM, NFM, and NM taxis).
5. Raw survey counts should be summed by vehicle type. The average vehicle classification for the street corridor during the respective peak period should be based upon the summed values and the relative percentages among the vehicle types.

AIR QUALITY APPENDIX 5

Guidelines for Calculating for Recirculation for Chemical Spills

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AIR QUALITY APPENDIX 5

Guidelines for Calculating Recirculation for Chemical Spills

To assess impacts from accidental chemical spills under a laboratory fume hood, effects from recirculation must be addressed. If an exhaust vent is located near operable windows or air intake vents, there is potential for recirculation of the pollutant back into the building.

The potential for recirculation is assessed using the method described by D.J. Wilson in "*A Design Procedure for Estimating Air Intake Contamination from Nearby Exhaust Vents,*" ASHRAE TRAS 89, Part 2A, p. 136-152 (1983). This procedure takes into account such factors as plume momentum, stack-tip downwash, and cavity recirculation effects. This recirculation analysis determines worst-case minimum dilution between exhaust and air intake.

Three separate effects produce the available dilution: internal system dilution (mixing in plenum chamber of multiple exhaust streams and fresh air); wind dilution, dependent on the distance from vent to intake and the exit velocity; and dilution from stack, caused by stack height and plume rise from vertical exhaust velocity. The critical wind speed is dependent on exit velocity, distance from vent to intake, and the cross-sectional area of the exhaust stack.

The following information about the pollutant and exhaust system must be known: stack height (m), stack diameter (m), stack exit velocity (m/s), mass flow rate of pollutant (g/sec), molecular weight of pollutant (g/mol), and the stretched string distance from stack to the nearest receptor.

An example recirculation calculation for carbon tetrachloride is included in the attachment. The inputs are: molecular weight of carbon tetrachloride, assumed mass flow rate, assumed stack diameter, height and exit velocity, and assumed string distance between stack and nearby receptor.

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**ASHRAE Dilution Calculations for Potential Spill
Carbon Tetrachloride**

$$DTOTAL = DSYSTEM * DWIND * DSTACK$$

Diameter	=	3.26 ft
Actual stack height	=	11 ft
exit velocity	=	24.38 m/s

DILUTION OF SYSTEM (DSYSTEM): CALCULATED AS TOTAL CONCENTRATION EXITING STACK

$$DSYSTEM = (\text{flowrate}/(\text{velocity per stack}) \times 1000 \times 24.45 / \text{mol wt})$$

flowrate of carbon tetrachloride	=	0.9635 g/sec
molecular wt of carbon tetrachloride	=	154

$$DSYSTEM = 6.3 \text{ PPM}$$

DILUTION OF WIND (DWIND) = $((1 + 1.48(S/\sqrt{A_e})^2)^{-2})$

(from ASHRAE)

WHERE	S = STRING DISTANCE FROM STACK TO NEAREST RECEPTOR =	189 FT
	$A_e = X\text{-SECTIONAL AREA OF EXHAUST STACK } (\pi D^2/4) =$	8.35 FT ²

$$\text{THEREFORE } DWIND = 168.2$$

DILUTION FROM STACK (DSTACK) (BETA=1 FOR UNCAPPED, VERTICAL EXHAUST)

(from ASHRAE)

$$U_{crit}/V_e = 20 \times (\sqrt{A_e})/S = 0.31$$

$$\text{Therefore, } V_e/U_{crit} = 3.27 > 1.5 \text{ so } H_d = 0$$

$$H_d = 2 \times \text{diameter} \times (1.5 - V_e/U_{crit}) = 0.00 \text{ FT}$$

$$H_s = \text{actual stack height} - H_d = 11.00 \text{ FT}$$

$$DSTACK = \exp((4.23 \times H_s / S + 707 \times \beta)^2) = 2.5$$

$$\text{THUS, } DTOTAL = 0.015 \text{ PPM}$$

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AIR QUALITY APPENDIX 6

Guidelines for Calculating Evaporation Rate for Chemical Spills

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AIR QUALITY APPENDIX 6

Guidelines for Calculating Evaporation Rate for Chemical Spills

In order to calculate evaporation rate from an accidental chemical spill, the following physical properties must be known: boiling point (deg C), molecular weight (g/mol), density (g/cm³), and vapor pressure (mm Hg).

The recommended procedures to determine the evaporation rate are displayed in the sample calculations provided in the attachment. Equations 1 and 3 are based on the Shell Model (Fleischer, M.T., "An Evaporation/Air Dispersion Model for Chemical Spills on Land," Shell Development Company, Dec. 1980). Equations 2, 4 and 5 are based on *Mass Transfer Operations*, 3rd Edition, by R.E. Treybal, p. 31-33.

The evaporation rate, E, is dependent on diffusivity of the component through air and saturated vapor density, among other factors. The diffusivity, D (equation 2), is based on several factors including a collision function which must be obtained from Figure 2.5 in *Mass Transfer Operations*, p. 32. The saturation vapor density, ρ^* , is calculated from the ideal gas law: $PV = nRT$. Room temperature (20 C) and an air flow rate of 0.5 m/s are assumed for calculation of evaporation rate.

An example evaporation rate calculation for acetone is included in the attachment. Note that this example is limited by the size of the lab. A spill area of 0.25 m² is assumed.

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LAB SPILL ANALYSIS - EVAPORATION RATE

Sample Calculation for Acetone

Evaporation Rate

$$E = D_{c-a} \cdot Sh_L \cdot (1/L) \cdot (\rho^*) \quad \text{eq. (1)}$$

where D_{c-a} is the diffusivity of component "c" through air, and defined as:

$$D_{c-a} = \frac{10^{-4} \cdot (1.084 - 0.249 \sqrt{(1/M_c + 1/M_a)}) \cdot T^{3/2} \cdot \sqrt{(1/M_c + 1/M_a)}}{P_t \cdot (r_{ca})^2 \cdot f(kT/E_{ca})} \quad \text{eq. (2)}$$

M_c, M_a are molecular weights of compound "c" and air, respectively [kg/kmol]

T = room temperature = 293 K

$P_t = 1$ std atm = 101.3×10^3 N/m²

E_{ca} = energy of molecular attraction

r_{ca} = molecular separation at collision [nm]

$$r_A = 1.18 v^{1/3}$$

(r in nm)

$$v = MW / \text{Density}$$

(v in m³/kmol)

$$r_{AB} = (1.3711 + r_A) / 2$$

(r_{AB} in nm)

$$v \rightarrow \frac{(\text{g/mol}) \cdot (1000 \text{ mol} / 1 \text{ kmol})}{(\text{g/cm}^3) \cdot (100 \text{ cm} / 1 \text{ m})^3} \rightarrow \text{m}^3/\text{kmol}$$

$$E_A / k = 1.21 \cdot T_b$$

$$E_{AB} / k = \sqrt{78.6 \cdot (E_A / k)}$$

$f(kT/E_{AB}) \rightarrow$ estimate from Figure 2.5 on page 32 of *Mass Transfer Operations*

$$D_{\text{acetone--air}} = \frac{10^{-4} \cdot (1.084 - 0.249 \sqrt{(1/58 + 1/29)}) \cdot (293)^{3/2} \cdot \sqrt{(1/58 + 1/29)}}{(101.3 \times 10^3) (0.4331)^2 (0.56)}$$

$$= 1.10 \times 10^{-5} \text{ m}^2/\text{sec}$$

ρ^* = saturated vapor density

$$\rho^* = n/V = P/RT \quad \text{Ideal Gas Law: } PV = nRT$$

$$R = \text{Gas Constant} = 0.082 \text{ L atm} / \text{mol K}$$

$$\rho^* = \frac{180 \text{ mmHg} (1 \text{ atm} / 760 \text{ mmHg})}{(0.082 \text{ L atm} / \text{mol K})(293 \text{ K})} \quad (\text{vapor pressure of acetone} = 180 \text{ mmHg})$$

$$= 9.86 \times 10^{-3} \text{ mol/L} \text{ or } 9.86 \times 10^{-6} \text{ mol/cm}^3$$

$$(9.86 \times 10^{-3} \text{ mol/L}) \cdot (1000 \text{ L} / 1 \text{ m}^3) \cdot (58 \text{ g/mol acetone})$$

$$\rho^* = 572 \text{ g/m}^3$$

$$Sh_L = \text{Sherwood \#} = 0.664 S_c^{1/3} Re_L^{1/2} \quad \text{eq. (3)}$$

$$\text{where } S_c = \text{Schmidt \#} = \mu / (\rho * D_{c-a}) = \nu_{air} / D_{c-a} \quad \text{eq. (4)}$$

[μ = viscosity, ρ = density, D_{c-a} = diffusivity, ν = kinematic viscosity (at 21 degrees C and std atm)]

$$Re_L = \nu L / \nu \quad \text{eq. (5)}$$

[L = length, ν = velocity of wind = 0.5 m/sec]

$$Sh_{\text{acetone}} = (0.664) * (1.482 \times 10^{-5} \text{ m}^2/\text{sec} / 1.10 \times 10^{-5} \text{ m}^2/\text{sec})^{1/3} * [(0.5 \text{ m/sec})(0.5 \text{ m}) / (1.482 \times 10^{-5} \text{ m}^2/\text{sec})]^{1/2} \\ = 95.2$$

$$E_{\text{acetone}} = (1.10 \times 10^{-5} \text{ m}^2/\text{sec}) (95.2) (1 / 0.5 \text{ m}) (572)$$

$$= 1.1980 \text{ g/m}^2 \cdot \text{sec} = \text{evaporation rate for acetone}$$

Emission Rate

Based on a spill area of 0.25 m², Q = Emission Rate

$$E \times A = 1.1980 \text{ g/m}^2 \cdot \text{sec} \times 0.25 \text{ m}^2 = 0.299 \text{ g/sec}$$

References

Eq (1), (3) from Shell Model

Eq (2), (4), (5) from *Mass Transfer Operations*, 3rd Ed., by Treybal

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Calculation of Evaporation Rate from Chemical Spill

Name	Container Size (liters)	Tb (C)	MW (g/mol)	d (g/cm ³)	r (nm)	E/(kT)	<r> (nm)	<E/(kT)>	<(kT)/E>	f(<r>)	D (m ² /s)	P at 20C (mm Hg)	ro (g/m ³)	Evaporation Rate (g/m ² -s)
Example Acetone		56.2	58	0.7857	0.4950	1.3603	0.4331	0.6041	1.6554	0.56	1.10E-05	180	572	0.8480

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AIR QUALITY APPENDIX 7

Refined Screening Analyses for Heat and Hot Water Systems

AIR QUALITY APPENDIX 7

Refined Screening Analyses for Heat and Hot Water Systems

Section 322.1 provides a discussion which identifies that impacts from boiler emissions are a function of fuel oil type, stack height, minimum distance from the source to the nearest receptor (building), and square footage of development resulting from the action. The preliminary screening analysis outlined in this section performed an analysis to determine an action's potential for significant impacts (Figure 3Q-3) is based on use of No #6 fuel oil in a residential building, the most conservative, 'worst case' scenario. If more detailed information regarding the boiler characteristics is available, then a more accurate screen can be performed.

These screens in the manual and appendices are based on emission factors obtained from EPA's, *Compilation of Air Pollutant Emission Factors, AP-42, Fifth Edition, Volume I: Stationary Point and Area Sources* (<http://www.epa.gov/ttn/chief/ap42>) and fuel consumption data obtained from the Department of Energy (<http://www.energy.gov/dataandprices/index.html>).

Figures 3Q-3 to 3Q-10 were specifically developed through detailed mathematical modeling to predict the threshold of development size below which an action would not likely have a significant impact based on size of proposed development type of fuel, use of the proposed building(s), and distance to nearest building of a height similar to or greater than the stack height of the proposed building(s). In order to provide the most conservative screens for development size, NO₂ screens have been developed for fuel oil No. 6 and natural gas systems while SO₂ screens are provided for systems based on fuel oil No. 2 and No. 4. The step-by-step methodology outlined below explains how to use these figures. Similar to the screen described in 322.1, this methodology is only appropriate for single buildings or sources. It is also only appropriate for buildings at least 30 feet from the nearest building of similar or greater height.

1. Consider the type of fuel that would be used to provide heat/hot water. If the type of fuel is unknown, generally assume No. 4 fuel oil (a conservative assumption for air quality purposes).
2. Determine the maximum size and type of development that would use the boiler stack. For residential or mixed-use commercial and residential actions, refer to the figures indicating "residential development." For nonresidential uses, refer to the "commercial and other uses development" figures.
3. Using a Borough President's map, Sanborn atlas, or equivalent, determine the minimum distance (in feet) between the building(s) resulting from or facilitated by the proposed action and the nearest building of similar or greater height.
4. If this distance is less than 30 feet, more detailed analyses than this step-by-step screen are required. If the distance is greater than 400 feet, assume 400 feet.
5. Determine the stack height of the building resulting from the proposed action, in feet above the local ground level. If unknown, assume 3 feet above the roof height of the building.
6. Select from the heights of 20, 100, and 160 feet, the number closest to but NOT higher than the proposed stack height.
7. Based on steps 1 through 6 above, select the appropriate Figure for the proposed action:

Figure 3Q-3: Residential Development, Fuel Oil #6, NO₂

Figure 3Q-4: Commercial & Other Uses Development, Fuel Oil #6, NO₂

Figure 3Q-5: Residential Development, Fuel Oil #4, SO₂

Figure 3Q-6: Commercial & Other Uses Development, Fuel Oil #4, SO₂

Figure 3Q-7: Residential Development, Fuel Oil #2, SO₂

Figure 3Q-8: Commercial & Other Uses Development, Fuel Oil #2, SO₂

Figure 3Q-9: Residential Development, Natural Gas, NO₂

Figure 3Q-10: Commercial & Other Uses Development, Natural Gas, NO₂

Locate a point on the appropriate chart by plotting the size of the development against the distance in feet to the edge of the nearest building of height similar to or greater than the stack of the proposed action.

If the plotted point is on or above the applicable curve, there is the potential for a significant air quality impact from the action's boiler(s), and detailed analyses may need to be conducted. If the plotted point is below the relevant curve, a potential significant impact due to boiler stack emissions is unlikely and no further analysis is needed.

In some cases, it may be possible to pass this screening analysis by restricting the type of fuel that could be used to supply heat and hot water. As illustrated in figures 3Q-3 through 3Q-10, No. 4 and No. 6 oils have greater emissions than No. 2 oil or natural gas. Limiting the fuel used by the proposed action to No. 2 oil or natural gas may eliminate the potential for significant adverse impacts and also the need for further analyses. This can be determined using steps 1 through 6 above. The action, however, would have to include the restriction on the boiler fuel type (and indicate the mechanism that would ensure the use of a specific fuel type) if this option is selected.

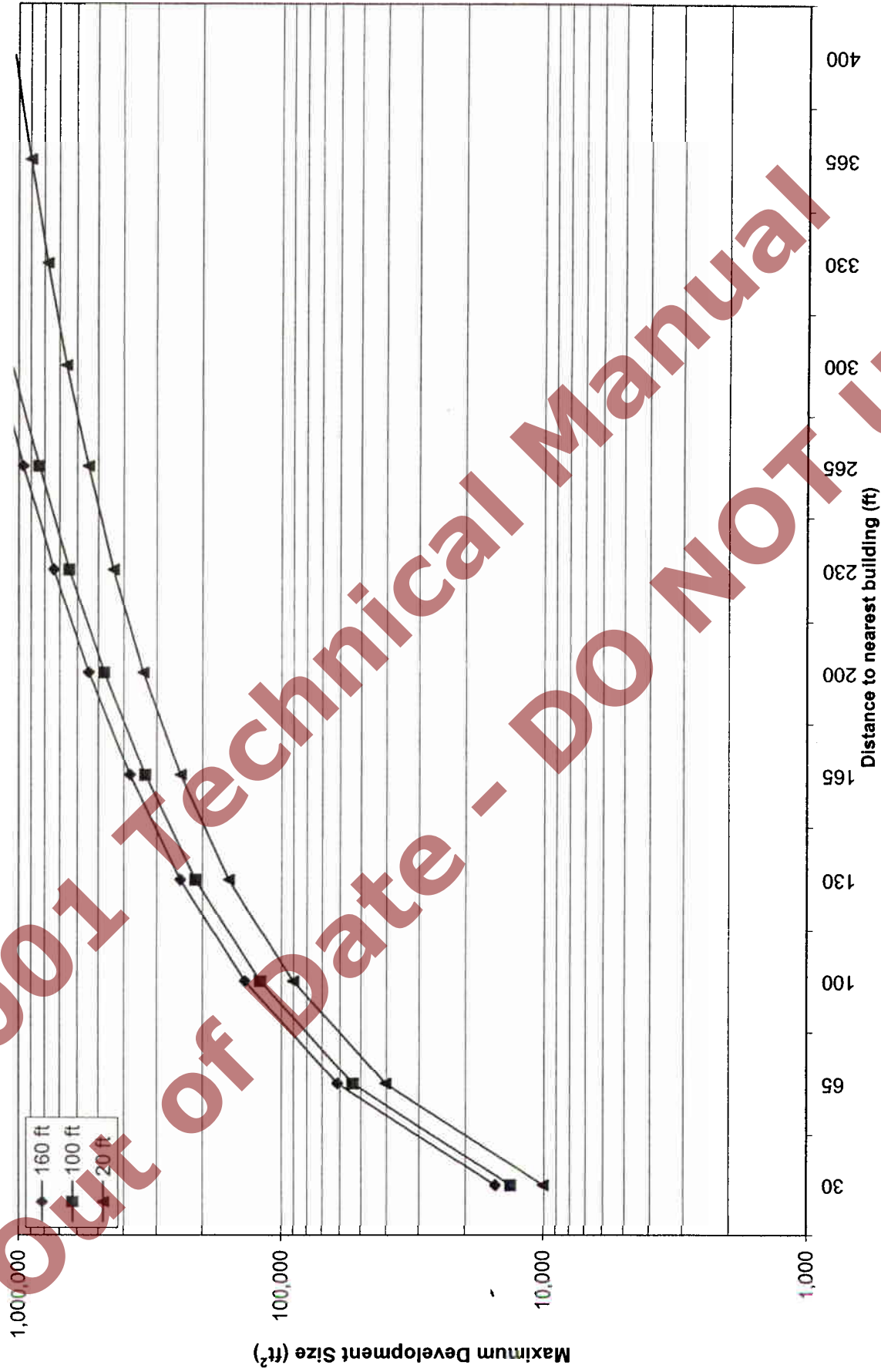
Alternatively, if a proposed action fails the initial screening analysis, but the maximum short-term 24-hour emissions of sulfur dioxide (for oil burning facilities) and annual emissions of nitrogen dioxide (for oil and gas burning facilities) have been estimated, Figures 3Q-11 and 3Q-12 can be used to determine the action's potential for significant impacts. Additionally, if the quantity of fuel consumption is known, the maximum short-term emissions can be calculated using EPA's AP-42 emission tables. For example, if the daily quantity of #6 fuel oil to be used is 100 gallons, the grams per second emissions can be calculated as follows:

$$\frac{100 \text{ gallons}}{\text{day}} \times \frac{0.0314 \text{ lb}^*}{\text{gallon}} \times \frac{453.59 \text{ grams}}{\text{lb}} \times \frac{1 \text{ day}}{86,400 \text{ seconds}} = \frac{0.016 \text{ grams}}{\text{second}}$$

* Emission factor for SO₂ from #6 fuel oil obtained from EPA's AP-42.

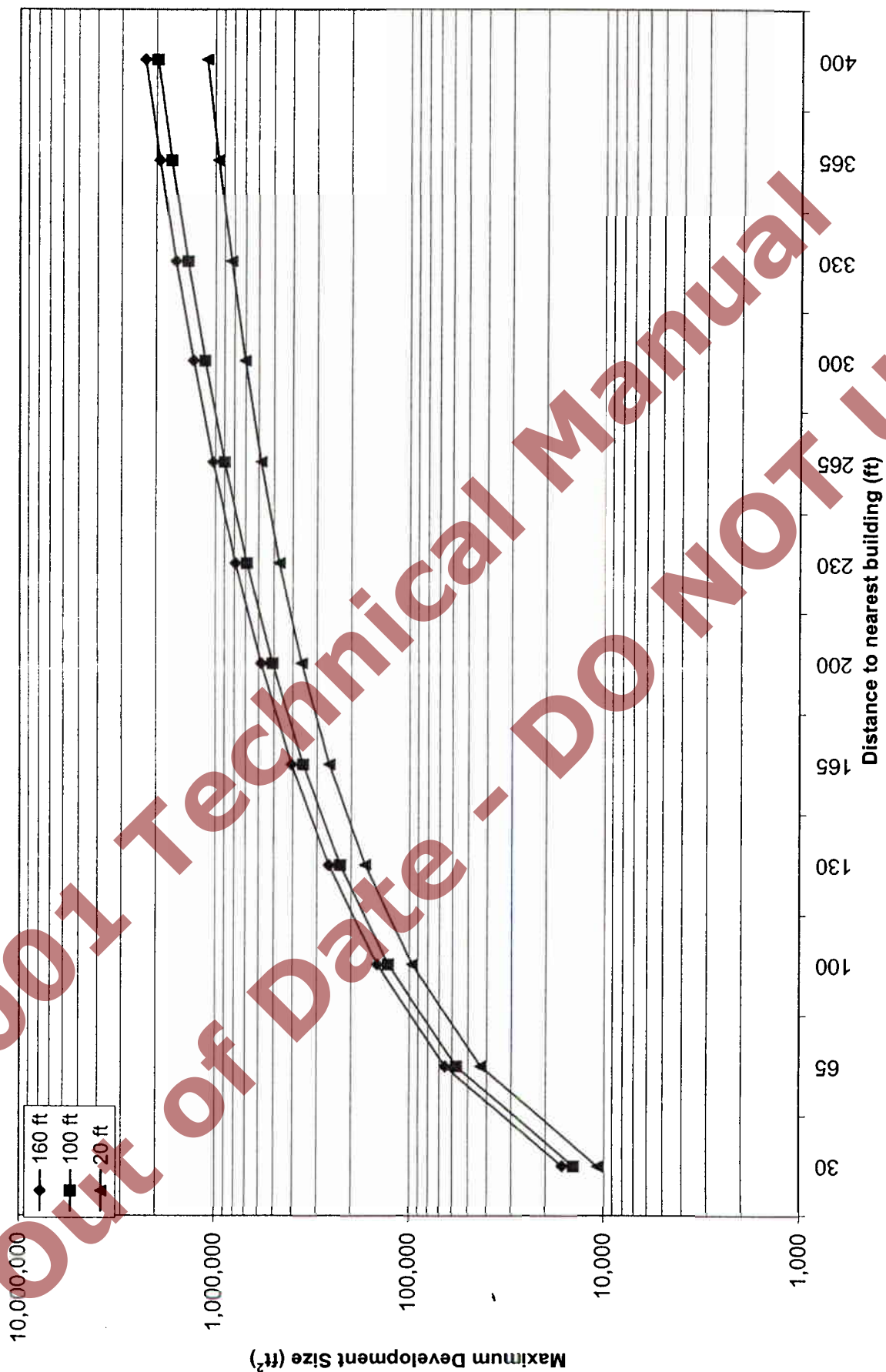
If the plotted point is on or above the curve corresponding to the appropriate stack height at the proper distance, there is the potential for a significant air quality impact from the action's boiler(s), and detailed analyses may need to be conducted. If the plotted point is below the applicable curve, a potential significant impact due to boiler stack emissions is unlikely and no further analysis is needed. For the above example, figure 3Q-12 indicates that for a proposed project that burns 100 gallons fuel oil #6 daily and has a 100 foot stack, further analysis is necessary if there are any buildings within a distance of 100 feet.

FIGURE 3Q-3
NO₂ BOILER SCREEN
RESIDENTIAL DEVELOPMENT - FUEL OIL #6



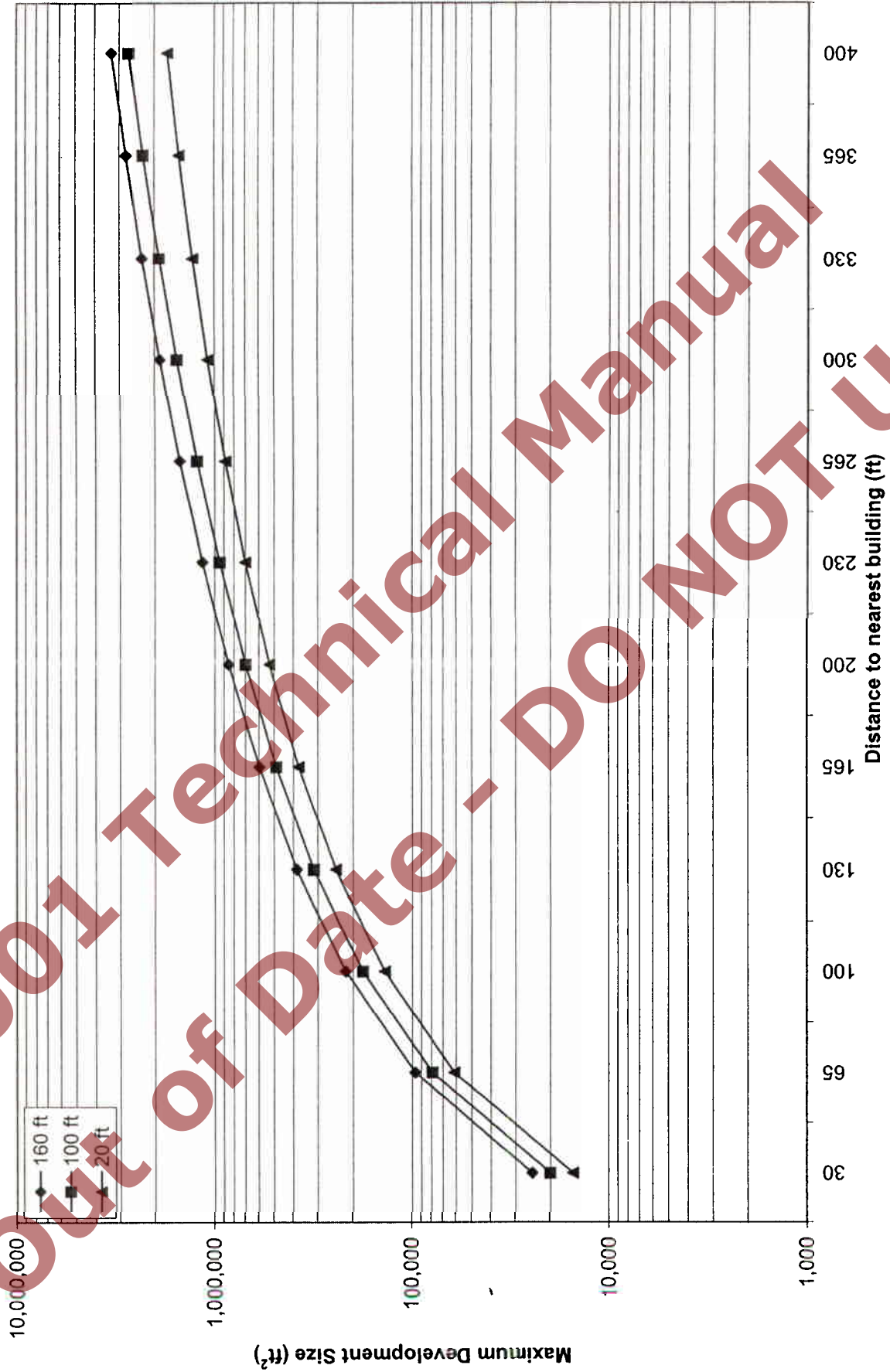
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FIGURE 3Q-4
NO₂ BOILER SCREEN
COMMERCIAL OTHER USES DEVELOPMENT - FUEL OIL #6



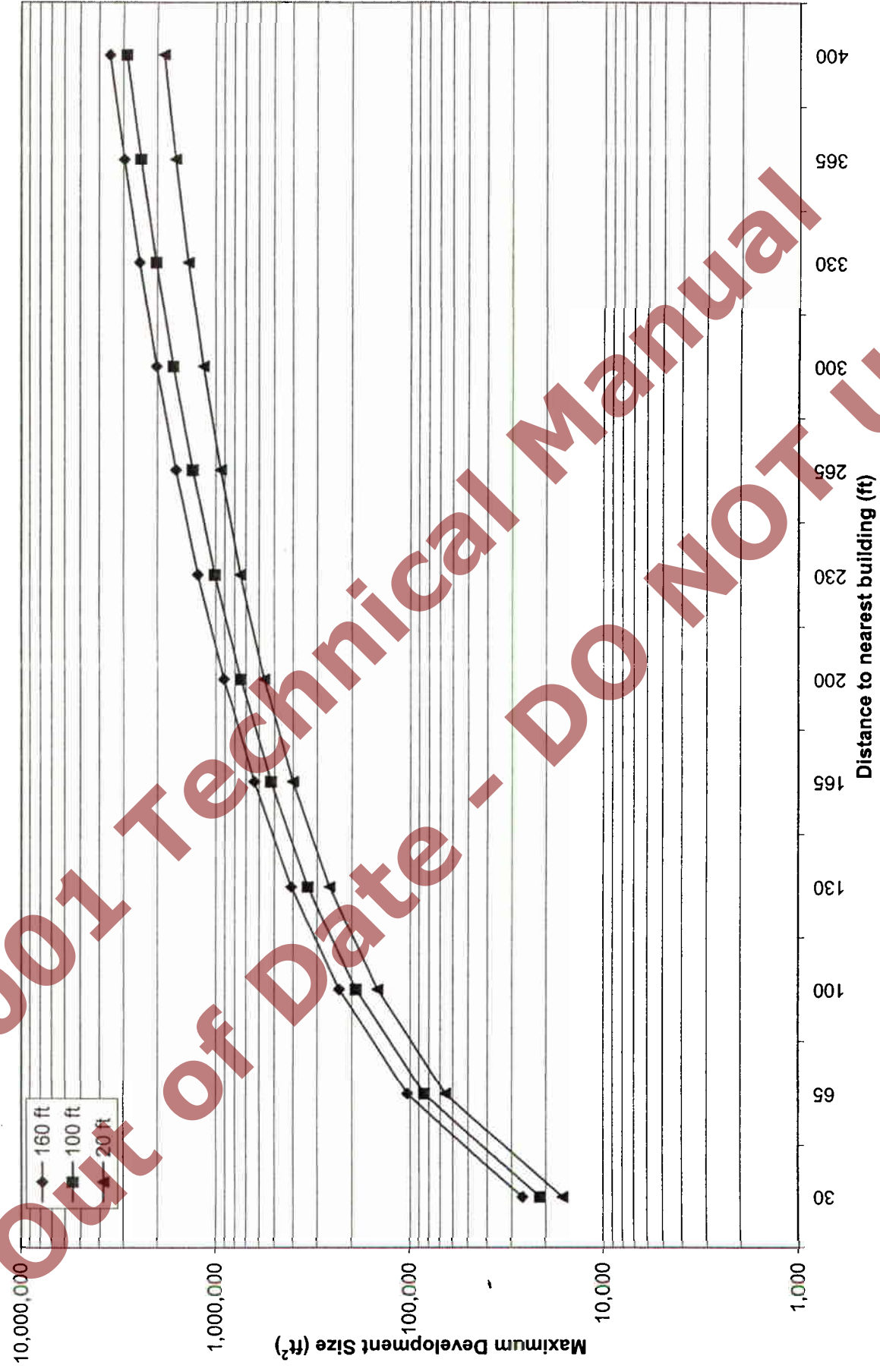
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FIGURE 3Q-5
 SO₂ BOILER SCREEN
 RESIDENTIAL DEVELOPMENT - FUEL OIL #4



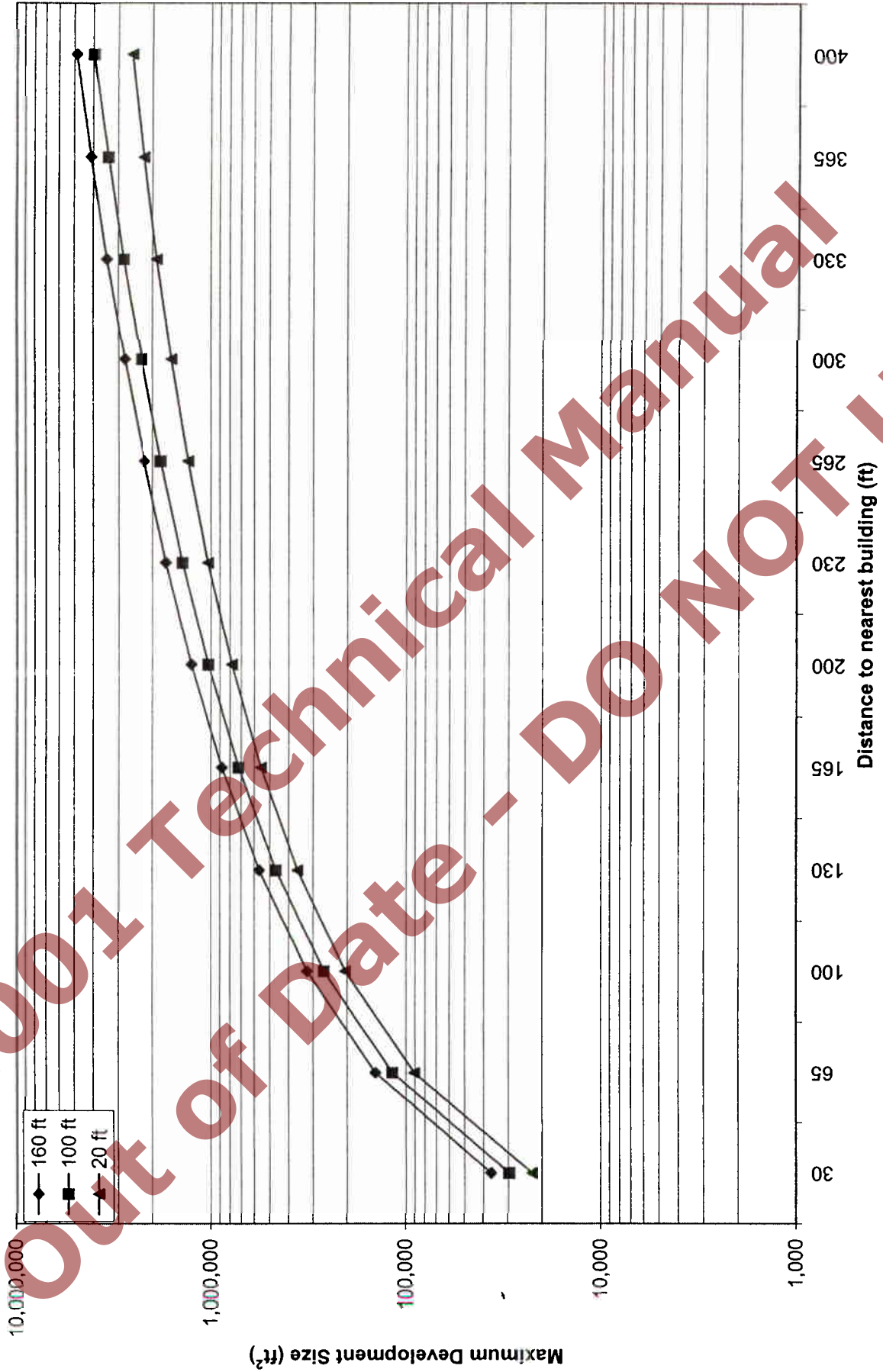
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FIGURE 3Q-6
SO₂ BOILER SCREEN
COMMERCIAL and OTHER USES DEVELOPMENT - FUEL OIL #4



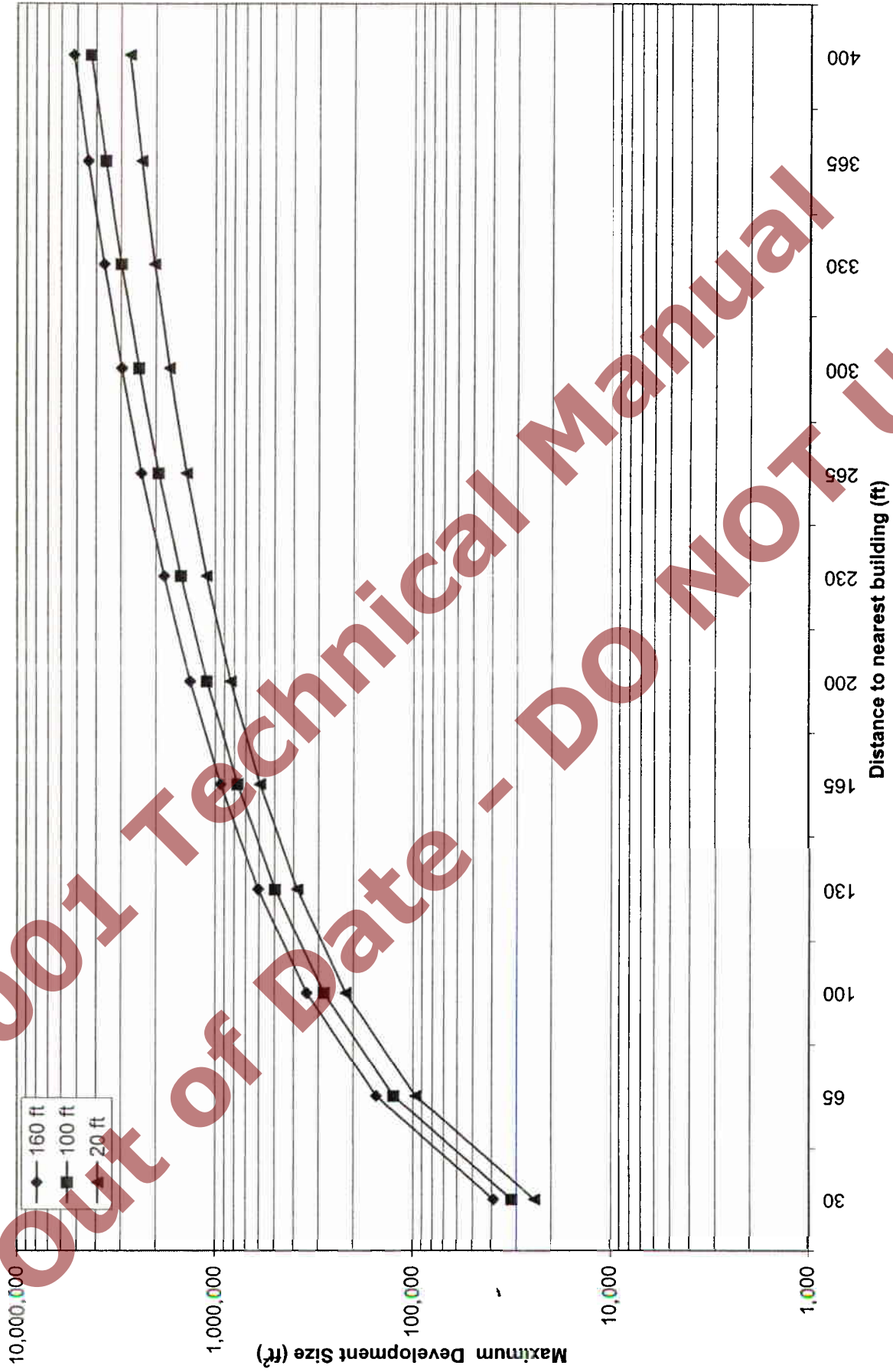
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FIGURE 3Q-7
SO₂ BOILER SCREEN
RESIDENTIAL DEVELOPMENT - FUEL OIL #2



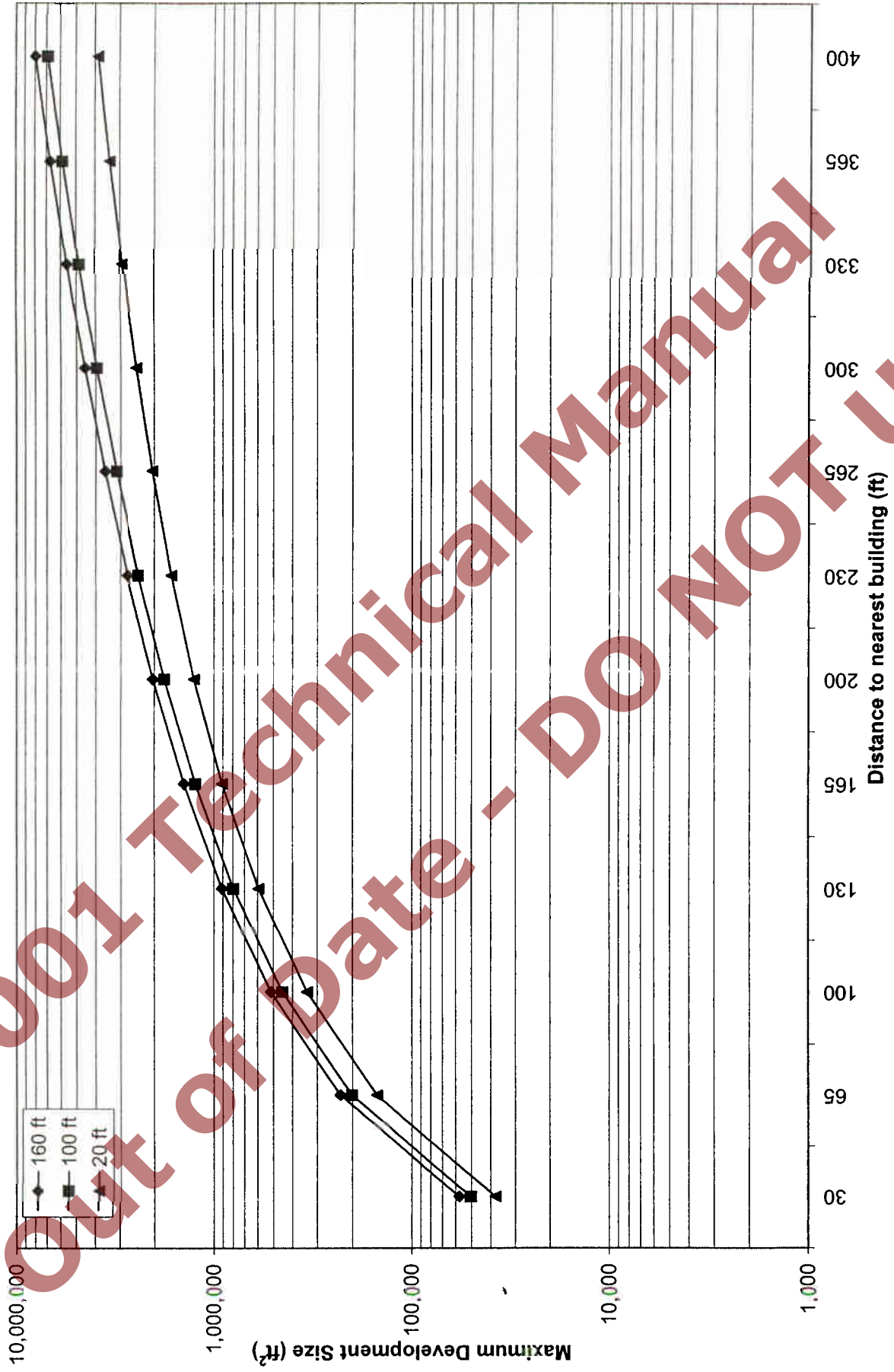
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FIGURE 3Q-8
SO₂ BOILER SCREEN
COMMERCIAL OTHER USES DEVELOPMENT - FUEL OIL #2



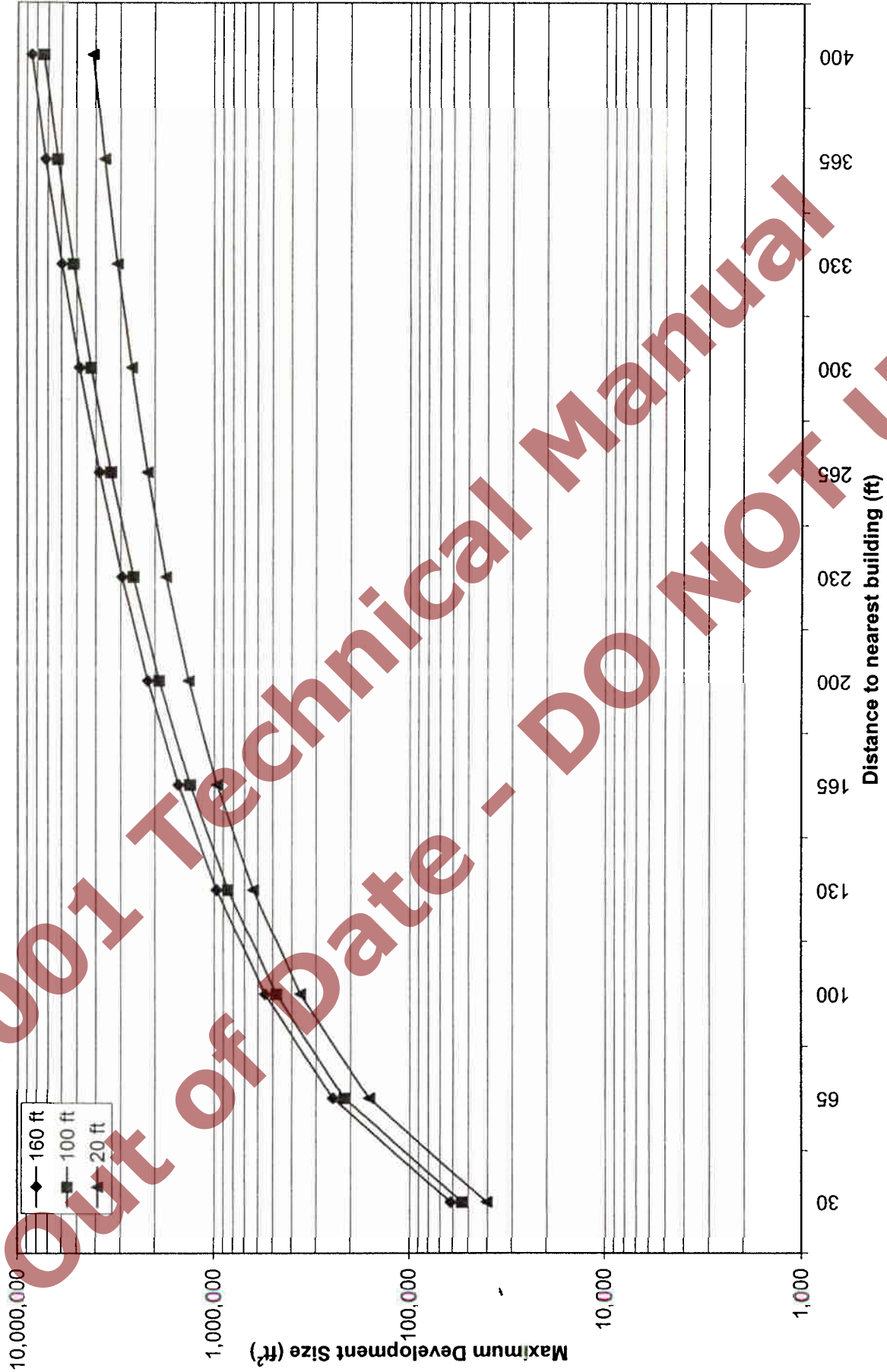
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FIGURE 3Q-9
NO₂ BOILER SCREEN
RESIDENTIAL DEVELOPMENT - NATURAL GAS



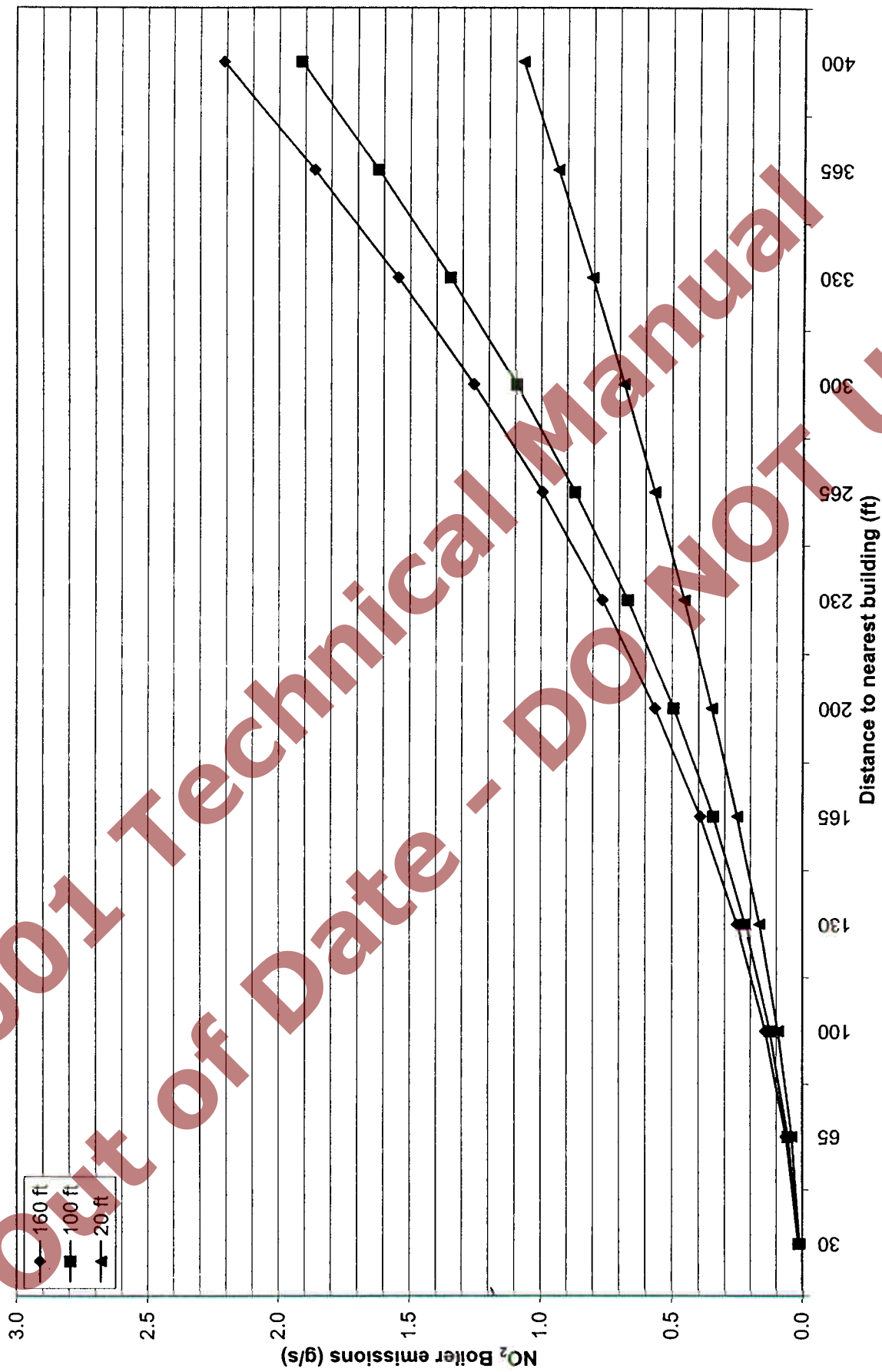
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FIGURE 3Q-10
 NO₂ BOILER SCREEN
 COMMERCIAL AND OTHER USES DEVELOPMENT - NATURAL GAS



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FIGURE 3Q-11
NO₂ EMISSIONS BOILER SCREEN (annual)



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FIGURE 3Q-12
SO₂ EMISSIONS BOILER SCREEN (24-hour)

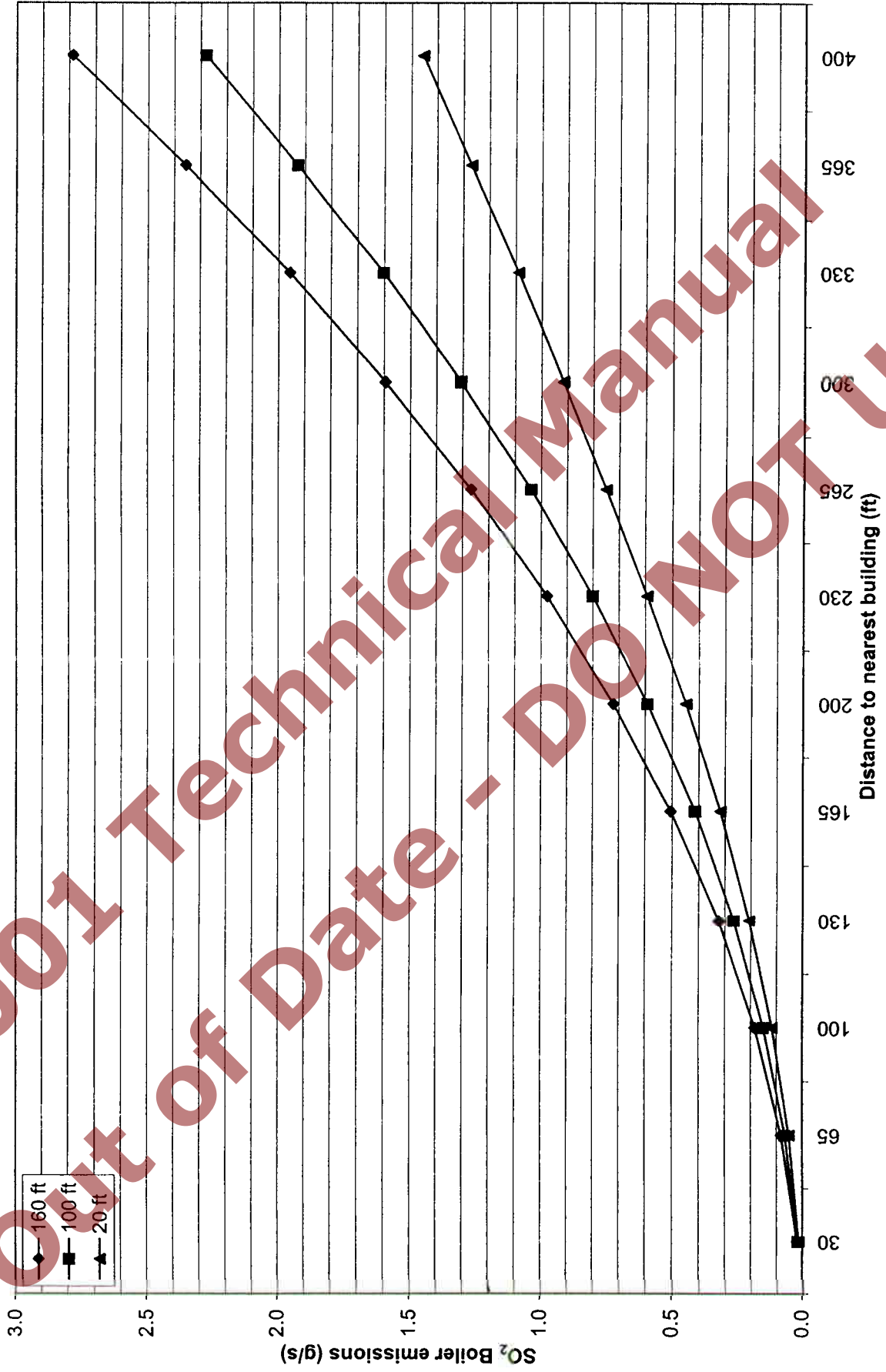


Table 1.3-1. CRITERIA POLLUTANT EMISSION FACTORS FOR FUEL OIL COMBUSTION*

Firing Configuration (SCC)*	SO ₂ ^b		SO ₃ ^c		NO _x ^d		CO ^e		Filterable PM ^f	
	Emission Factor (lb/10 ³ gal)	EMISSION FACTOR RATING	Emission Factor (lb/10 ³ gal)	EMISSION FACTOR RATING	Emission Factor (lb/10 ³ gal)	EMISSION FACTOR RATING	Emission Factor (lb/10 ³ gal)	EMISSION FACTOR RATING	Emission Factor (lb/10 ³ gal)	EMISSION FACTOR RATING
Boilers > 100 Million Btu/hr										
No. 6 oil fired, normal firing (1-01-004-01), (1-02-004-01), (1-03-004-01)	157S	A	5.7S	C	47	A	5	A	9.19(S)+3.22	A
No. 6 oil fired, normal firing, low NO _x burner (1-01-004-01), (1-02-004-01)	157S	A	5.7S	C	40	B	5	A	9.19(S)+3.22	A
No. 6 oil fired, tangential firing, (1-01-004-04)	157S	A	5.7S	C	32	A	5	A	9.19(S)+3.22	A
No. 6 oil fired, tangential firing, low NO _x burner (1-01-004-04)	157S	A	5.7S	C	26	E	5	A	9.19(S)+3.22	A
No. 5 oil fired, normal firing (1-01-004-05), (1-02-004-04)	157S	A	5.7S	C	47	B	5	A	10	B
No. 5 oil fired, tangential firing (1-01-004-06)	157S	A	5.7S	C	32	B	5	A	10	B
No. 4 oil fired, normal firing (1-01-005-04), (1-02-005-04)	150S	A	5.7S	C	47	B	5	A	7	B
No. 4 oil fired, tangential firing (1-01-005-05)	150S	A	5.7S	C	32	B	5	A	7	B
No. 2 oil fired (1-01-005-01), (1-02-005-01), (1-03-005-01)	157S	A	5.7S	C	24	D	5	A	2	A
No. 2 oil fired, LNB/FGR, (1-01-005-01), (1-02-005-01), (1-03-005-01)	157S	A	5.7S	A	10	D	5	A	2	A

S = 2

157 x 0.2 = 31.4

Table 1.3-1. (cont.)

Firing Configuration (SCC) ^a	SO ₂ ^b		SO ₃ ^c		NO _x ^d		CO ^e		Filterable PM ^f	
	Emission Factor (lb/10 ³ gal)	EMISSION FACTOR RATING	Emission Factor (lb/10 ³ gal)	EMISSION FACTOR RATING	Emission Factor (lb/10 ³ gal)	EMISSION FACTOR RATING	Emission Factor (lb/10 ³ gal)	EMISSION FACTOR RATING	Emission Factor (lb/10 ³ gal)	EMISSION FACTOR RATING
Boilers < 100 Million Btu/hr										
No. 6 oil fired (1-02-004-02/03) (1-03-004-02/03)	157S	A	2S	A	55	A	5	A	10	B
No. 5 oil fired (1-03-004-04)	157S	A	2S	A	55	A	5	A	9.19(S)+3.22	A
No. 4 oil fired (1-03-005-04)	150S	A	2S	A	20	A	5	A	7	B
Distillate oil fired (1-02-005-02/03) (1-03-005-02/03)	142S	A	2S	A	20	A	5	A	2	A
Residential furnace (A2104004/A2104011)	142S	A	2S	A	18	A	5	A	0.4 ^g	B

^a To convert from lb/10³ gal to kg/10³ L, multiply by 0.120. SCC = Source Classification Code.

^b References 1-2,6-9,14,56-60. S indicates that the weight % of sulfur in the oil should be multiplied by the value given. For example, if the fuel is 1% sulfur, then S = 1.

^c References 1-2,6-8,16,57-60. S indicates that the weight % of sulfur in the oil should be multiplied by the value given. For example, if the fuel is 1% sulfur, then S = 1.

^d References 6-7,15,19,22,56-62. Expressed as NO_x. Test results indicate that at least 95% by weight of NO_x is NO for all boiler types except residential furnaces, where about 75% is NO. For utility vertical fired boilers use 105 lb/10³ gal at full load and normal (>15%) excess air. Nitrogen oxides emissions from residual oil combustion in industrial and commercial boilers are related to fuel nitrogen content, estimated by the following empirical relationship: lb NO_x/10³ gal = 20.54 + 104.39(N), where N is the weight % of nitrogen in the oil. For example, if the fuel is 1% nitrogen, then N = 1.

^e References 6-8,14,17-19,56-61. CO emissions may increase by factors of 10 to 100 if the unit is improperly operated or not well maintained.

^f References 6-8,10,13-15,56-60,62-63. Filterable PM is that particulate collected on or prior to the filter of an EPA Method 5 (or equivalent) sampling train. Particulate emission factors for residual oil combustion are, on average, a function of fuel oil sulfur content where S is the weight % of sulfur in oil. For example, if fuel oil is 1% sulfur, then S = 1.

^g Based on data from new burner designs. Pre-1970's burner designs may emit filterable PM as high as 3.0 lb/10³ gal.

Table 1. Total Energy Consumption by Major Fuel, 1995

Building Characteristics	All Buildings		Total Energy Consumption (trillion Btu)					Primary Electricity (trillion Btu)	RSE Row Factor
	Number of Buildings (thousand)	Floorspace (million square feet)	Total of Major Fuels	Site Electricity	Natural Gas	Fuel Oil	District Heat		
All Buildings	4,579	58,772	5,321	2,608	1,946	235	533	7,873	5.74
Building Floorspace (square feet)									
1,001 to 5,000	2,399	6,338	708	380	264	44	Q	1,148	9.50
5,001 to 10,000	1,035	7,530	624	238	272	26	Q	718	14.90
10,001 to 25,000	745	11,617	824	384	356	45	38	1,161	12.29
25,001 to 50,000	213	7,676	630	316	231	28	55	954	9.79
50,001 to 100,000	115	7,968	698	363	243	31	60	1,097	10.41
100,001 to 200,000	48	6,776	687	337	244	21	84	1,017	11.84
200,001 to 500,000	19	5,553	636	307	211	25	94	927	13.65
Over 500,000	6	5,313	514	282	125	14	93	852	14.56
Principal Building Activity									
Education	309	7,740	614	221	245	57	91	666	10.34
Food Sales	137	642	137	119	18	Q	Q	358	20.58
Food Service	285	1,353	332	166	158	Q	Q	502	20.94
Health Care	105	2,333	561	211	258	21	70	637	13.78
Lodging	158	3,618	461	167	213	Q	57	865	13.83
Mercantile and Service	1,289	12,728	973	508	395	49	Q	1,533	12.33
Office	705	10,478	1,019	676	239	28	75	2,039	11.11
Public Assembly	326	3,948	449	170	142	14	Q	514	17.28
Public Order and Safety	87	1,271	124	49	33	Q	Q	148	30.10
Religious Worship	269	2,792	184	33	57	13	Q	99	13.80
Warehouse and Storage	580	8,481	325	176	106	10	Q	531	16.23
Other	67	1,004	173	75	55	Q	Q	228	32.41
Vacant	261	2,884	51	18	26	5	Q	54	25.95
Year Constructed									
1919 or Before	353	3,073	292	99	135	26	31	300	17.69
1920 to 1945	562	6,740	508	173	210	40	85	523	13.02
1946 to 1959	867	9,298	826	325	391	54	57	980	13.05
1960 to 1969	718	10,858	1,024	472	375	53	124	1,424	10.20
1970 to 1979	813	11,333	1,125	615	393	28	89	1,856	9.79
1980 to 1989	846	12,252	1,059	648	288	23	Q	1,955	10.82
1990 to 1992	216	2,590	297	163	100	2	Q	492	20.61
1993 to 1995	202	2,059	190	113	54	8	Q	343	21.77
Floors									
One	3,018	24,552	1,846	980	654	78	Q	2,958	8.58
Two	1,002	14,122	1,122	549	481	54	38	1,656	10.13
Three	399	7,335	675	283	284	43	65	853	12.15
Four to Nine	148	8,789	1,229	552	411	49	217	1,667	11.39
Ten or More	12	3,975	461	244	117	11	79	738	14.00
Census Region and Division									
Northeast	725	11,883	1,035	436	297	168	135	1,317	10.17
New England	204	3,140	274	99	74	79	23	297	16.09
Middle Atlantic	521	8,743	761	338	223	88	112	1,020	12.10
Midwest	1,139	14,322	1,497	558	750	16	173	1,684	11.18
East North Central	739	9,655	987	356	505	Q	114	1,074	11.65
West North Central	401	4,668	510	202	244	4	60	610	20.49
South	1,750	20,830	1,684	1,027	528	45	83	3,101	10.43
South Atlantic	676	9,475	772	487	197	37	Q	1,471	13.96
East South Central	477	4,917	417	238	164	Q	Q	718	18.42
West South Central	597	6,438	494	302	167	Q	Q	911	13.93
West	964	11,736	1,106	587	371	7	Q	1,772	13.72
Mountain	319	3,855	429	182	150	Q	Q	549	24.32
Pacific	646	7,881	677	405	221	Q	Q	1,223	13.82

See footnotes at end of table.

Fuel Consumption - 1995
Commercial Use

	sq ft (million)	Total Btu (tril)	Btu/sq ft (thousand)	Electricity (tril Btu)	minus Elec (tril Btu)	heating Btu/sq ft (thou)	cubic ft/sq ft NG	gallons/sq ft #2 fuel oil	gallons/sq ft #4 & 6 fuel oil
average	58772	5321	90.5	2608	2713	46.2	45.3	0.33	0.31
Year Constructed									
before 1919									
1900-1919	3673	292	79.5	99	193	52.5	51.5	0.38	0.35
1920-1945	6710	508	75.7	173	335	49.9	48.9	0.36	0.33
1946-1959	9298	826	88.8	325	501	53.9	52.8	0.38	0.36
1960-1969	10858	1024	94.3	472	552	50.8	49.8	0.36	0.34
1970-1979	11333	1125	99.3	615	510	45.0	44.1	0.32	0.30
1980-1989	12252	1059	86.4	648	411	33.5	32.9	0.24	0.22
1990-1992	2590	297	114.7	163	134	51.7	50.7	0.37	0.34
1993-1995	2059	190	92.3	113	77	37.4	36.7	0.27	0.25
size (sq. ft)									
1001-5000	6338.0	708	111.7	380	328	51.8	50.7	0.37	0.35
5001-10000	7530.0	624	82.9	238	386	51.3	50.3	0.37	0.34
10001-25000	11617.0	824	70.9	384	440	37.9	37.1	0.27	0.25
25001-50000	7676.0	630	82.1	316	314	40.9	40.1	0.29	0.27
50001-100000	7968.0	698	87.6	363	335	42.0	41.2	0.30	0.28
100001-200000	6776.0	687	101.4	337	350	51.7	50.6	0.37	0.34
200001-500000	5553.0	636	114.5	307	329	59.2	58.1	0.42	0.39
over 500000	5313.0	514	96.7	282	232	43.7	42.8	0.31	0.29
Northeast	11883.0	1035	87.1	436	599	50.4	49.4	0.36	0.34

Table 5.1. Consumption and Expenditures in U.S. Households, 1993

Characteristics	Residential Buildings			Average of Major Energy Sources ¹								RSE Row Factors	
	Total Households (million)	Total Number (million)	Total Floor-space (billion sq. ft.)	Consumption				Expenditures (dollars)					
				per Building (million Btu)	per Square Foot (thousand Btu)	per Household (million Btu)	per Household Member (million Btu)	per Building	per Square Foot	per Household	per Household Member		
RSE Column Factors:	1.4	1.4	1.4	1.0	0.8	1.0	1.0	0.9	0.8	0.8	0.8	0.8	Factors
Total U.S. Households	96.6	76.5	181.2	131	55	103.6	40	1,620	0.68	1,282	491	1.3	
Census Region and Division													
Northeast	19.5	13.8	40.1	173	60	122.4	47	2,157	.74	1,526	583	2.4	
New England	5.1	3.7	10.6	168	59	123.1	48	2,094	.73	1,532	598	4.1	
Middle Atlantic	14.4	10.1	29.4	175	60	122.1	46	2,181	.75	1,523	578	2.9	
Midwest	23.3	19.0	50.6	165	62	134.3	52	1,640	.62	1,336	521	2.3	
East North Central	16.4	13.1	35.3	173	64	138.8	54	1,697	.63	1,358	526	2.5	
West North Central	6.9	5.9	15.2	146	56	123.8	49	1,512	.58	1,282	508	4.6	
South	33.5	28.4	57.1	104	52	87.9	34	1,540	.76	1,304	503	2.5	
South Atlantic	17.4	14.2	29.9	95	45	77.8	31	1,577	.75	1,288	506	3.5	
East South Central	6.0	5.5	10.8	104	53	94.9	37	1,315	.67	1,200	463	4.3	
West South Central	10.1	8.7	16.5	118	62	101.1	38	1,619	.86	1,391	522	4.6	
West	20.4	15.4	33.5	101	46	76.0	28	1,263	.58	953	353	2.6	
Mountain	5.4	4.4	9.3	118	57	98.1	38	1,236	.59	1,025	396	4.3	
Pacific	15.0	10.9	24.2	94	42	68.2	25	1,274	.58	928	338	3.3	
Largest Populated States													
California	11.1	8.0	17.9	91	41	65.2	23	1,313	.59	944	330	3.5	
Florida	5.6	4.3	9.3	67	31	52.1	20	1,527	.71	1,180	453	5.7	
New York	6.8	3.7	12.8	225	64	121.2	45	2,925	.84	1,577	590	4.7	
Texas	6.4	5.4	10.8	114	57	94.7	36	1,622	.81	1,349	506	6.2	
Urban Status													
Urban	75.8	57.2	140.5	137	56	103.2	39	1,689	.69	1,275	488	1.5	
Central City	30.6	19.8	47.1	151	63	97.6	38	1,785	.75	1,155	455	2.4	
Suburban	45.2	37.4	93.4	129	52	107.0	40	1,639	.66	1,356	509	1.7	
Rural	20.8	19.3	40.7	113	54	104.7	40	1,415	.67	1,309	501	2.6	
Climate Zone ²													
Under 2,000 CDD and Over 7,000 HDD	8.7	7.6	19.3	142	56	124.0	48	1,434	.57	1,254	481	4.8	
5,500 to 7,000 HDD	26.5	20.4	55.2	168	62	129.2	51	1,762	.65	1,356	534	3.6	
4,000 to 5,499 HDD	22.5	17.0	44.0	143	55	108.3	42	1,796	.69	1,359	521	4.4	
Under 4,000 HDD	17.8	13.9	28.5	101	49	78.5	29	1,419	.69	1,107	408	4.9	
2,000 CDD or More and Under 4,000 HDD	21.2	17.6	34.2	95	49	79.0	30	1,525	.79	1,267	482	3.8	
Type of Housing Unit													
Single-Family	66.8	66.8	152.2	119	52	118.5	43	1,441	.63	1,441	517	1.4	
Detached	59.5	59.5	139.1	121	52	121.2	43	1,462	.63	1,462	520	1.5	
Attached	7.3	7.3	13.1	96	53	96.3	37	1,266	.70	1,266	487	4.7	
Mobile Home	5.6	5.6	5.4	82	84	81.9	31	1,203	1.23	1,203	454	4.3	
Multifamily	24.2	4.1	23.6	398	69	67.3	32	5,108	.89	863	406	3.0	
2 to 4 Units	8.0	2.9	9.6	276	83	99.5	41	3,085	.93	1,112	461	4.4	
5 or More Units	16.2	1.2	14.0	692	60	51.5	26	9,951	.86	740	373	3.7	
Heated Floorspace (square feet)													
Fewer than 1,000	29.3	15.3	24.2	128	81	66.7	31	1,675	1.06	875	411	2.3	
1,000 to 1,999	40.2	34.6	68.2	117	59	100.7	37	1,492	.76	1,286	473	1.6	
2,000 to 2,999	17.8	17.4	48.6	140	50	136.6	47	1,661	.60	1,622	552	2.1	
3,000 or More	9.3	9.1	40.3	172	39	168.8	55	1,936	.44	1,901	620	3.6	

See footnotes at end of table.

Table 5.2. Total Consumption in U.S. Households, 1993

Characteristics	Major Energy Sources ¹ (quad-rillion Btu)	Electricity			Natural Gas		Fuel Oil		Kerosene		Liquefied Petroleum Gas		RSE Row Factors
		Primary (quad-rillion Btu)	Site		(quad-rillion Btu)	(bil-lion cubic feet)	(quad-rillion Btu)	(bil-lion gal-lons)	(quad-rillion Btu)	(bil-lion gal-lons)	(quad-rillion Btu)	(bil-lion gal-lons)	
			(quad-rillion Btu)	(bil-lion kWh)									
RSE Column Factors:	0.4	0.4	0.4	0.4	0.7	0.7	1.3	1.3	2.8	2.8	2.0	2.0	Factors
Total U.S. Households	10.01	9.89	3.28	962	5.27	5,131	1.02	7.38	0.05	0.34	0.38	4.16	4.8
Census Region and Division													
Northeast	2.38	1.42	.47	138	1.11	1,081	.76	5.46	.02	.15	.03	.28	10.7
New England .....	.62	.37	.12	36	.19	184	.29	2.10	.01	.06	.01	.15	14.9
Middle Atlantic	1.76	1.05	.35	102	.92	897	.47	3.36	.01	.08	.01	.13	13.8
Midwest	3.13	2.23	.74	217	2.07	2,013	.13	.92	Q	Q	.19	2.04	10.0
East North Central	2.27	1.50	.50	146	1.59	1,549	.07	.51	Q	Q	.10	1.13	11.6
West North Central .....	.86	.74	.24	72	.48	463	.06	.41	Q	Q	.08	.91	16.8
South	2.95	4.54	1.51	442	1.18	1,149	.11	.77	.02	.15	.13	1.43	7.8
South Atlantic	1.35	2.25	.75	219	.42	409	.10	.72	.02	.13	.07	.73	9.3
East South Central .....	.57	.90	.30	88	.22	217	Q	Q	Q	Q	.04	.41	16.2
West South Central	1.02	1.39	.46	135	.54	523	NC	NC	Q	Q	.03	.29	13.7
West	1.55	1.70	.56	166	.91	888	.03	.23	Q	Q	.04	.41	10.6
Mountain .....	.53	.50	.17	49	.33	317	Q	Q	Q	Q	.03	.30	13.8
Pacific	1.02	1.20	.40	117	.59	571	.03	.19	Q	Q	.01	.11	12.7
Largest Populated States													
California .....	.73	.68	.22	66	.49	478	Q	Q	Q	Q	.01	.07	8.8
Florida .....	.29	.76	.25	74	.02	18	Q	Q	Q	Q	.01	.14	19.8
New York .....	.82	.40	13	39	.42	411	.25	1.83	Q	Q	Q	Q	22.9
Texas .....	.61	.88	.29	86	.30	295	NC	NC	Q	Q	.02	.17	20.1
Urban Status													
Urban	7.82	7.33	2.43	713	4.47	4,351	.78	5.59	.02	.16	.12	1.32	5.9
Central City	2.99	2.51	.83	244	1.93	1,876	.20	1.45	.01	.05	.02	.17	9.1
Suburban	4.84	4.82	1.60	469	2.54	2,475	.57	4.14	.01	.11	.11	1.15	6.6
Rural	2.18	2.57	.85	250	.80	779	.25	1.79	.02	.18	.26	2.84	9.4
Climate Zone²													
Under 2,000 CDD and													
Over 7,000 HDD	1.08	.82	.27	80	.52	506	.20	1.48	.01	.08	.07	.77	25.1
5,500 to 7,000 HDD	3.42	2.38	.79	232	2.14	2,083	.37	2.64	.01	.08	.11	1.23	17.8
4,000 to 5,499 HDD	2.43	2.33	.77	226	1.16	1,133	.42	3.02	.01	.07	.07	.76	16.6
Under 4,000 HDD	1.40	1.64	.54	159	.75	733	.03	.21	.01	.08	.06	.67	22.4
2,000 CDD or More and													
Under 4,000 HDD	1.68	2.72	.90	265	.70	677	Q	Q	.01	.04	.07	.73	15.9
Type of Housing Unit													
Single-Family	7.92	7.77	2.58	756	4.17	4,060	.83	6.02	.03	.19	.30	3.31	5.8
Detached	7.21	7.04	2.34	685	3.77	3,666	.78	5.65	.03	.19	.30	3.27	6.2
Attached .....	.70	.73	.24	71	.41	394	.05	.37	(*)	.01	Q	Q	17.7
Mobile Home .....	.46	.64	.21	63	.14	132	.02	.13	.02	.13	.07	.79	17.0
Multifamily	1.63	1.48	.49	144	.97	939	.17	1.23	(*)	.02	.01	.06	12.3
2 to 4 Units .....	.80	.50	.17	49	.54	523	.09	.64	(*)	.01	(*)	.04	17.3
5 or More Units .....	.83	.97	.32	95	.43	416	.08	.59	Q	Q	Q	Q	13.4
Heated Floorspace (square feet)													
Fewer than 1,000	1.96	2.06	.68	200	1.02	992	.14	.99	.02	.18	.09	.99	7.3
1,000 to 1,999	4.05	4.29	1.43	418	2.11	2,056	.35	2.52	.02	.12	.14	1.56	6.9
2,000 to 2,999	2.44	2.23	.74	217	1.29	1,254	.32	2.34	(*)	.02	.08	.88	9.0
3,000 or More	1.57	1.31	.43	127	.85	828	.21	1.53	Q	Q	.07	.73	12.6
Total Number of Rooms (Excluding Bathrooms)													
1 or 2 .....	.13	.13	.04	13	.07	69	.02	.13	Q	Q	Q	Q	23.4
3 to 5	3.77	4.00	1.33	389	1.92	1,866	.33	2.39	.03	.25	.16	1.76	6.5
6 to 8	5.08	4.91	1.63	478	2.71	2,634	.54	3.87	.01	.09	.19	2.09	7.3
9 or More	1.02	.85	.28	83	.58	561	.14	.99	(*)	(*)	.03	.30	15.6

See footnotes at end of table.

Fuel Consumption 1993
Residential

	sq ft million	Total Btu (tril)	Btu/sq ft (thousand)	Electricity (tril Btu)	minus Elec (tril Btu)	heating Btu/sq ft (thou)	cubic ft/sq ft NG	gallons/sq ft #2 fuel oil	gallons/sq ft #4 & 6 fuel oil
average	181200	9966	55.0	3280	6686	36.9	36.2	0.26	0.25
Year Constructed									
before 1939	40600	2639	65.0	510	2129	52.4	51.4	0.37	0.35
1940-1949	11600	777.2	67.0	200	577.2	49.8	48.8	0.36	0.33
1950-1959	24700	1482	60.0	420	1062	43.0	42.2	0.31	0.29
1960-1969	27200	1550.4	57.0	490	1060.4	39.0	38.2	0.28	0.26
1970-1979	31700	1585	50.0	710	875	27.6	27.1	0.20	0.18
1980-1984	14700	676.2	46.0	350	326.2	22.2	21.8	0.16	0.15
1985-1987	10800	475.2	44.0	230	245.2	22.7	22.3	0.16	0.15
1988-1990	10000	430	43.0	210	220	22.0	21.6	0.16	0.15
1991-1993	10000	400	40.0	160	240	24.0	23.5	0.17	0.16
Northeast	40100	2406	60	470	1936	48.3	47.3	0.34	0.32
New York	12800.0	819.2	64.0	130	689.2	53.8	52.8	0.38	0.36
Type of Housing Unit									
Single Family	152200	7914.4	52	2580	5334.4	35.0	34.4	0.25	0.23
Detached	139100	7233.2	52	2340	4893.2	35.2	34.5	0.25	0.23
Attached	13100	694.3	53	240	454.3	34.7	34.0	0.25	0.23
Mobile Home	5400	453.6	84	210	243.6	45.1	44.2	0.32	0.30
Multifamily	23600	1628.4	69	490	1138.4	48.2	47.3	0.34	0.32
2-4 units	9600	796.8	83	170	626.8	65.3	64.0	0.47	0.44
5 or more units	14000	840	60	320	520	37.1	36.4	0.27	0.25

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AIR QUALITY APPENDIX 8
Industrial Source Screen for Potential Cumulative Impacts

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AIR QUALITY APPENDIX 8

Industrial Source Screen for Potential Cumulative Impacts

Section 322.1 outlines the methodology for analysis of an additional screen for industrial sources from a single point pollutant source. This appendix describes how to determine potential cumulative impact from multiple sources. Table 3Q-3 depicts maximum concentration values for various time periods (1-hour, 8-hour, 24-hour and annual) for the distances from 30 feet to 400 feet and the shortest stack and receptor height (20 feet). This table is based on the generic emission rate of 1 gram per second of pollutant from a point source and the latest five years of available meteorological data (1996-2000) from La Guardia airport. Default values from the CEQR manual were used: stack exit velocity employed was 0.001 m/s, stack diameter was assumed to be 0 m and stack exit temperature was set at 293K. Step-by-step methodology outlined below explains how to accurately use the values in this table to determine the potential cumulative impact from industrial emissions on a new proposed action:

1. Identify all sources with potential impact on the proposed project.
2. Convert the estimated emissions from the industrial sources of concern into grams/second.
3. Determine distance to each point pollution source.
4. Using the look up table, find the corresponding concentration for distance between each industrial source and the new use of concern for desired averaging time.
5. For each point, multiply the emission rates from step 2 with the value from the table (step 4).
6. Combine these values to determine potential cumulative impact.

For example, a proposed project has three point pollution sources within a 400 ft radius. A 50,000 square foot residential building at a distance of 65 ft, a 100,000 square foot commercial building at a distance of 130 ft and 25,000 square foot residential building at a distance of 330 ft. Following the above steps:

1. Identify three sources
 - a. 50,000 sq. ft. residential building
 - b. 100,000 sq. ft. commercial building
 - c. 25,000 sq. ft. residential building
2. Convert emissions into grams/second:
 - a. 50,000 sq. ft. residential building
 $50,000 \text{ sq. ft.} \cdot .38 \text{ gallons/sq. ft/100 days}^1 \cdot 0.0284 \text{ lbs/gallon}^2 \cdot 453.59 \text{ grams/lb}^3 \cdot 1 \text{ day/86,400 seconds}^3 = 0.028 \text{ grams/second}$
 - b. 100,000 sq. ft. commercial building
 $100,000 \text{ sq. ft.} \cdot .30 \text{ gallons/sq. ft/100 days}^1 \cdot 0.0284 \text{ lbs/gallon}^2 \cdot 453.59 \text{ grams/lb}^3 \cdot 1 \text{ day/86,400 seconds}^3 = 0.045 \text{ grams/second}$
 - c. 25,000 sq. ft. residential building
 $25,000 \text{ sq. ft.} \cdot .38 \text{ gallons/sq. ft/100 days}^1 \cdot 0.0284 \text{ lbs/gallon}^2 \cdot 453.59 \text{ grams/lb}^3 \cdot 1 \text{ day/86,400 seconds}^3 = 0.014 \text{ grams/second}$
3. Distance of 65 ft, 130 ft, 330 ft
4. Values from table for 24-hour averaging period:
 - a. 65 ft - 5,751 ug/m³
 - b. 130 ft - 1,458 ug/m³
 - c. 330 ft - 267 ug/m³

¹ Fuel consumption data obtained from the Department of Energy

² Emission factors obtained from EPA's, Compilation of Air Pollutant Emission Factors, AP-42, Fifth Edition, Volume I: *Stationary Point and Area Sources*

³ Conversion factor

5. Emission rates multiplied by screen concentration:
 - a. 65 ft – $5,751 * 0.028 = 161$
 - b. 130 ft – $1,458 * 0.045 = 65.6$
 - c. 330 ft – $267 * 0.014 = 3.7$
6. Potential cumulative impact from the multiple point sources is 230 ug/m^3 ($161 + 65.6 + 3.7$).

Combined with background SO_2 concentration of 92 ug/m^3 (2nd highest concentration observed at IS-155 Monitoring Station, 1999) the total impact on the proposed action is 322 ug/m^3 . As the results show, there are no predicted exceedances of the National and New York State Ambient Air Quality Standards for maximum 24-hour SO_2 concentration of 365 ug/m^3 .

Table 3Q-3
Industrial Source Screen

20 Foot Source Height				
Distance from Source	1-Hour Averaging Period (ug/m3)	8-Hour Averaging Period (ug/m3)	24-Hour Averaging Period (ug/m3)	Annual Averaging Period (ug/m3)
30 ft	151,114	52,690	22,850	2,196
65 ft	38,130	13,290	5,751	551
100 ft	17,103	5,959	2,573	246
130 ft	9,708	3,381	1,458	140
165 ft	6,269	2,183	942	91
200 ft	4,392	1,530	664	66
230 ft	3,258	1,135	499	51
265 ft	2,524	880	392	41
300 ft	2,028	707	319	34
330 ft	1,681	587	267	29
365 ft	1,431	499	228	25
400 ft	1,245	434	199	21

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Table 1.3-1. (cont.)

Firing Configuration (SCC)*	SO ₂ ^b		SO ₃ ^c		NO _x ^d		CO ^e		Filterable PM ^f	
	Emission Factor (lb/10 ³ gal)	EMISSION FACTOR RATING	Emission Factor (lb/10 ³ gal)	EMISSION FACTOR RATING	Emission Factor (lb/10 ³ gal)	EMISSION FACTOR RATING	Emission Factor (lb/10 ³ gal)	EMISSION FACTOR RATING	Emission Factor (lb/10 ³ gal)	EMISSION FACTOR RATING
Boilers < 100 Million Btu/hr										
No. 6 oil fired (1-02-004-02/03)	157S	A	2S	A	55	A	5	A	10	B
(1-03-004-02/03)										
No. 5 oil fired (1-03-004-04)	157S	A	2S	A	55	A	5	A	9.19(S)+3.22	A
No. 4 oil fired (1-03-005-04)	150S	A	2S	A	20	A	5	A	7	B
Disillate oil fired (1-02-005-02/03)	142S	A	2S	A	20	A	5	A	2	A
(1-03-005-02/03)										
Residential furnace (A2104004/A2104011)	142S	A	2S	A	18	A	5	A	0.4*	B

* To convert from lb/10³ gal to kg/10³ L, multiply by 0.120. SCC = Source Classification Code.
 b References 1-2,6-9,14,56-60. S indicates that the weight % of sulfur in the oil should be multiplied by the value given. For example, if the fuel is 1% sulfur, then S = 1.
 c References 1-2,6-8,16,57-60. S indicates that the weight % of sulfur in the oil should be multiplied by the value given. For example, if the fuel is 1% sulfur, then S = 1.
 d References 6-7,15,19,22,56-62. Expressed as NO_x. Test results indicate that at least 95% by weight of NO_x is NO for all boiler types except residential furnaces, where about 75% is NO. For utility vertical fired boilers use 105 lb/10³ gal at full load and normal (>1.5%) excess air. Nitrogen oxides emissions from residual oil combustion in industrial and commercial boilers are related to fuel nitrogen content, estimated by the following empirical relationship: lb NO_x/10³ gal = 20.54 + 104.39(N), where N is the weight % of nitrogen in the oil. For example, if the fuel is 1% nitrogen, then N = 1.
 e References 6-8,14,17-19,56-61. CO emissions may increase by factors of 10 to 100 if the unit is improperly operated or not well maintained.
 f References 6-8,10,13-15,56-60,62-63. Filterable PM is that particulate collected on or prior to the filter of an EPA Method 5 (or equivalent) sampling train. Particulate emission factors for residual oil combustion are, on average, a function of fuel oil sulfur content where S is the weight % of sulfur in oil. For example, if fuel oil is 1% sulfur, then S = 1.
 * Based on data from new burner designs. Pre-1970's burner designs may emit filterable PM as high as 3.0 lb/10³ gal.

S = .2

$$142 \times 0.2 = 28.4 \text{ lb} / 10^3 \text{ gal} = 0.0284 \text{ lbs} / \text{gal}$$

Fuel Consumption 1993
Residential

	sq ft million	Total Btu (tril)	Btu/sq ft (thousand)	Electricity (tril Btu)	minus Elec heating Btu/sq ft (thou)	cubic ft/sq ft NG	gallons/sq ft #2 fuel oil	gallons/sq ft #4 & 6 fuel oil	
average	181200	9966	55.0	3280	6686	36.9	36.2	0.26	0.25
Year Constructed									
before 1939	40600	2639	65.0	510	2129	52.4	51.4	0.37	0.35
1940-1949	11600	777.2	67.0	200	577.2	49.8	48.8	0.36	0.33
1950-1959	24700	1482	60.0	420	1062	43.0	42.2	0.31	0.29
1960-1969	27200	1550.4	57.0	490	1060.4	39.0	38.2	0.28	0.26
1970-1979	31700	1585	50.0	710	875	27.6	27.1	0.20	0.18
1980-1984	14700	676.2	46.0	350	326.2	22.2	21.8	0.16	0.15
1985-1987	10800	475.2	44.0	230	245.2	22.7	22.3	0.16	0.15
1988-1990	10000	430	43.0	210	220	22.0	21.6	0.16	0.15
1991-1993	10000	400	40.0	160	240	24.0	23.5	0.17	0.16
Northeast	40100	2406	60	470	1936	48.3	47.3	0.34	0.32
New York	12800.0	819.2	64.0	130	689.2	53.8	52.8	0.38	0.36
Type of Housing Unit									
Single Family	152200	7914.4	52	2580	5334.4	35.0	34.4	0.25	0.23
Detached	139100	7233.2	52	2340	4893.2	35.2	34.5	0.25	0.23
Attached	13100	694.3	53	240	454.3	34.7	34.0	0.25	0.23
Mobile Home	5400	453.6	84	210	243.6	45.1	44.2	0.32	0.30
Multifamily	23600	1628.4	69	490	1138.4	48.2	47.3	0.34	0.32
2-4 units	9600	796.8	83	170	626.8	65.3	64.0	0.47	0.44
5 or more units	14000	840	60	320	520	37.1	36.4	0.27	0.25

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Fuel Consumption - 1995
Commercial Use

	sq ft (million)	Total Btu (tril)	Btu/sq ft (thousand)	Electricity (tril Btu)	minus Elec (thou)	heating Btu/sq ft	NG cubic ft/sq ft	#2 fuel oil gallons/sq ft	#4 & 6 fuel oil gallons/sq ft
average	58772	5321	90.5	2608	2713	46.2	45.3	0.33	0.31
Year Constructed									
before 1919									
1900-1919	3673	292	79.5	99	193	52.5	51.5	0.38	0.35
1920-1945	6710	508	75.7	173	335	49.9	48.9	0.36	0.33
1946-1959	9298	826	88.8	325	501	53.9	52.8	0.38	0.36
1960-1969	10858	1024	94.3	472	552	50.8	49.8	0.36	0.34
1970-1979	11333	1125	99.3	615	510	45.0	44.1	0.32	0.30
1980-1989	12252	1059	86.4	648	411	33.5	32.9	0.24	0.22
1990-1992	2590	297	114.7	163	134	51.7	50.7	0.37	0.34
1993-1995	2059	190	92.3	113	77	37.4	36.7	0.27	0.25
size (sq. ft)									
1001-5000	6338.0	708	111.7	380	328	51.8	50.7	0.37	0.35
5001-10000	7530.0	624	82.9	238	386	51.3	50.3	0.37	0.34
10001-25000	11617.0	824	70.9	384	440	37.9	37.1	0.27	0.25
25001-50000	7676.0	630	82.1	316	314	40.9	40.1	0.29	0.27
50001-100000	7968.0	698	87.6	363	335	42.0	41.2	0.30	0.28
100001-200000	6776.0	687	101.4	337	350	51.7	50.6	0.37	0.34
200001-500000	5553.0	636	114.5	307	329	59.2	58.1	0.42	0.39
over 500000	5313.0	514	96.7	282	232	43.7	42.8	0.31	0.29
Northeast	11883.0	1035	87.1	436	599	50.4	49.4	0.36	0.34

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