

**New York City
Waterfront Revitalization Program
Guidance for Applicants**

March 2017

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Statement of Purpose

The purpose of this document is to:

- 1) Provide a high level summary of the Waterfront Revitalization Program, its purpose and how it is applied.
- 2) Provide guidance to **applicants** about how consistency review is conducted, including for new policies introduced in the 2013 Revisions to the Waterfront Revitalization Program.
- 3) Clarify the WRP review process, including the roles and responsibilities of involved **public agencies** and the **coordination** of the Waterfront Revitalization Program with other review procedures.

Introduction

What is the WRP?

New York City's Waterfront Revitalization Program (WRP) – originally adopted in 1982, updated in 2002, and revised in 2013 – is the city's principal Coastal Zone management tool. The guiding principle of the WRP is to maximize the benefits derived from economic development, environmental conservation, and public use of the waterfront, while minimizing the conflicts among these objectives. A local waterfront revitalization program, such as New York City's, is authorized by New York State's Waterfront Revitalization of Coastal Areas and Inland Waterway Act, which was enacted in response to the Federal Coastal Zone Management Act, and allows municipalities to participate in the State's Coastal Management Program.

Through individual project review, the WRP aims to promote activities appropriate to various waterfront locations. The program is designed to coordinate review of activities and decisions affecting the Coastal Zone (a mapped area of land and water that imposes a direct and significant impact on coastal waters) particularly when there are overlapping jurisdictions or multiple agencies responsible for review. To carry out this function, the WRP establishes a set of ten policies for the development and use of the waterfront and provides a framework for evaluating the consistency of activities in the Coastal Zone with those policies. When a proposed local, state, or federal project or discretionary action is located within the Coastal Zone or is likely to affect the policies of the Coastal Zone, a determination of the activity's consistency with the coastal policies contained in the WRP must be made before the action or project can move forward.

The City Planning Commission, acting in its capacity as the City Coastal Commission ("CCC"), and the New York City Department of City Planning ("DCP") are responsible for administering the WRP.

When is WRP consistency review required?

WRP consistency review is required for any project that:

- Is located within the Coastal Zone boundary AND
- Requires at least one of the following:
 - A local discretionary action, such as a City Planning Commission action or a city capital project, subject to City Environmental Quality Review (CEQR).
 - A state agency action or program subject to State Environmental Quality Review (SEQR) and WRP consistency review by the relevant state agency. (See Appendix A for the list of *State Activities Which Should Be Undertaken in a Manner Consistent with the LWRP*)
 - A federal agency permit/authorization, funding or direct action subject to WRP consistency review by the New York State Department of State (DOS) for the relevant federal agency. (See Appendix A for the list of *Federal Activities Affecting Land and Water Uses and Natural Resources in the Coastal Zone of New York State*)

Ten Policy Areas

The WRP establishes a set of ten policy categories for the development and use of the waterfront. These provide a framework for evaluating the consistency of activities in the Coastal Zone with the WRP's goals for waterfront development. Each policy category contains policies and sub-policies, which provide additional considerations that should be assessed during consistency review.



Policy 1: Residential and Commercial Redevelopment

Support and facilitate commercial and residential redevelopment in areas well-suited to such development



Policy 2: Maritime and Industrial Development

Support water-dependent and industrial uses in coastal areas that are well-suited to their continued operations



Policy 3: Use of the Waterways

Promote the use of waterways for commercial and recreational boating and water-dependent transportation



Policy 4: Ecological Resources

Protect and restore the quality and function of ecological systems within the New York City coastal area



Policy 5: Water Quality

Protect and improve water quality in the New York City coastal area



Policy 6: Flooding and Erosion

Minimize loss of life, structures, infrastructure, and natural resources caused by flooding and erosion, and increase resilience to future conditions created by climate change



Policy 7: Hazardous Materials

Minimize environmental degradation and negative impacts on public health from solid waste, toxic pollutants, hazardous materials, and industrial materials that may pose risks to the environment and public health and safety



Policy 8: Public Access

Provide public access to, from, and along New York City's coastal waters



Policy 9: Scenic Resources

Protect scenic resources that contribute to the visual quality of the New York City coastal area



Policy 10: Historic and Cultural Resources

Protect, preserve and enhance resources significant to the historical, archaeological, architectural, and cultural legacy of the New York City coastal area

Maps

The WRP contains maps delineating the boundaries of New York City's Coastal Zone Boundary as well as 5 Special Area Designations. These maps are contained within Part III of the WRP.

Coastal Zone Boundary

The Coastal Zone Boundary defines the geographic scope of the WRP. This boundary encompasses all land and water that could have a direct and significant impact on coastal water, including all waterfront land up to the first upland street at least 300 feet inland, as well as all coastal wetlands, waterfront parks, floodplains, and other significant coastal features.

The WRP sets forth five types of special area designations. Different policies may take priority if located in or adjacent to a special area designation.

The Coastal Zone and all other WRP boundary maps are available as pdfs and GIS shapefiles on the NYC WRP website.



Special Natural Waterfront Areas (SNWAs)

SNWAs are large areas with significant open spaces and concentrations of natural resources including wetlands, habitats, and buffer areas.

Locations: East River/Long Island Sound, Jamaica Bay, and Northwestern Staten Island Harbor Herons Area

Significant Maritime and Industrial Areas (SMIAs)

SMIAs are areas especially valuable as industrial areas and working waterfronts, due to their location and site conditions.

Locations: South Bronx, Newtown Creek, Brooklyn Navy Yard, Red Hook Container Terminal, Sunset Park/Erie Basin, Kill Van Kull, and Staten Island West Shore

Arthur Kill Ecologically Sensitive Maritime and Industrial Area (ESMIA)

The ESMIA on the West Shore of Staten Island promotes industrial development in concert with preservation and enhancement of ecological resources.

Location: West Shore of Staten Island along the Arthur Kill

Priority Marine Activity Zones (PMAZ)

PMAZ are areas with concentrations of waterborne transportation uses that support the city's waterborne transportation and maritime activities.

Locations: Majority of the 7 Significant Maritime and Industrial Areas; maritime clusters in Eastchester, Flushing Bay, southeast State Island; cruise terminals, ferry landings, commercial marinas, and others.

Recognized Ecological Complexes (RECs)

The RECs are clusters of valuable natural features which are more fragmented than those in the SNWAs and often interspersed with developed sites.

Example Locations: Protected parkland, areas designated as Forever Wild Preserves, and other priority acquisition or restoration sites identified from a variety of science-based plans and reports.

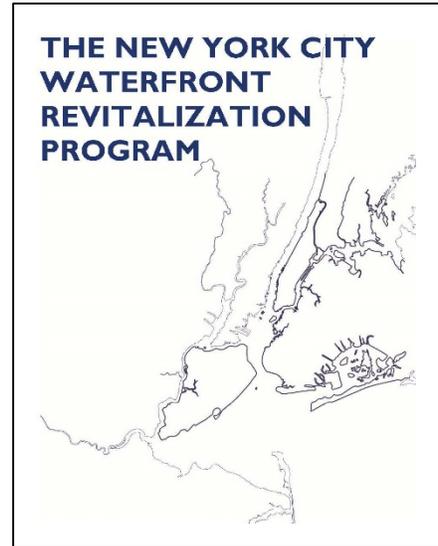
Background

History of the WRP in New York City

- 1972 Federal Coastal Zone Management Act (CZMA) is approved, creating a legal framework and encouraging coastal states to create coastal zone management programs. States with federally approved coastal management plans benefit from the CZMA's federal consistency provision, which provides that federal activities must be reviewed for consistency with the approved state management plan.
- 1981 New York State enacts the [Waterfront Revitalization and Coastal Areas Resources Act](#) (now the Waterfront Revitalization of Coastal Areas and Inland Waterways Act), establishing the statutory authority for creation of the State's Coastal Management Program and codifying the State's intention to support development of local Waterfront Revitalization Programs, such as the WRP, as long as the local programs are consistent with the State's coastal policies. Once approved at the state and federal levels, the local policies become incorporated into the State's Coastal Management Program.
- 1982 State adopts and federal government approves the NYS Coastal Management Program. New York City is the first municipality in New York State to create a local Waterfront Revitalization Program, charging the City Planning Commission, acting as the City Coastal Commission, and the Department of City Planning, with the responsibility of administering the WRP.
- 1992 New York City releases its first citywide comprehensive waterfront plan.
- 2002 In 1999, the Waterfront Revitalization Program undergoes its first revision, based on the goals of the 1992 comprehensive waterfront plan. It was approved at the state and federal levels in 2002.
- 2011 New York City releases [Vision 2020: the New York City Comprehensive Waterfront Plan](#), which establishes new long-term goals for the city's waterfront.
- 2013 The New York City Council approves revisions to the New York City Waterfront Revitalization Program to proactively advance the goals laid out in Vision 2020.
- 2016 The revised Waterfront Revitalization Program is approved by the New York State Secretary of State and the federal Office of Coastal Management.

2016 Revisions to the WRP

In order to advance the long-term goals for the city's waterfront, the City of New York has revised the Waterfront Revitalization Program. These changes were reviewed pursuant to the [197-a process](#) set forth in the City Charter for community input and adoption, and received City Council approval on October 30, 2013. The WRP was approved by the NYS Secretary of State for inclusion in the [State's Coastal Management Program](#) on February 3, 2016 and received concurrence from the National Oceanographic and Atmospheric Association's Office of Coastal Management on June 9, 2016.



The revisions to the WRP offer a more fine-grained set of policies to better address the city's varied coastal conditions. Among the most significant changes, the revised policies promote climate resilient designs, encourage new opportunities for public access to the waterfront where appropriate and achievable, and encourage an active, clean working waterfront. Notably, these policies for the first time address the risk of climate change and sea level rise by promoting the use of climate change projections in the planning and design of projects.

In addition, the updated Coastal Zone Boundary includes the 500-year floodplain boundary (also known as the 0.2 percent annual chance floodplain) based on the 2015 FEMA Preliminary Flood Insurance Rate Maps (FIRMs). The two existing special area designations (Significant Maritime and Industrial Areas and Special Natural Waterfront Areas) have been updated to clarify and adjust boundary lines and to include new mapped areas. Additionally, three new special area designations have been created and mapped: Recognized Ecological Complexes, Priority Marine Activity Zones, and the West Shore Ecologically Sensitive Maritime and Industrial Area.

Significant Policy Changes

In the 2016 revisions to the WRP, the following policies were either substantially updated or have been newly created. Minor changes, such as small word changes or changes to the numbering of the policies, are not reflected in the list below.

1.1A	3.5	6.1 B, E, F, G
1.4	4.1 D, E, F, G	6.2*
1.5 (see 6.2)	4.2*	6.3 A, B, C
2.1 A, E, F, G, H, I, J, K	4.3 C	7.1 B, C, D, E, F
2.2*	4.4	8.2 B, E, F
2.3 B, F, G (see 2.2)	4.5 D, E	8.3 B
2.4 G	4.6	8.4 A
2.5 (see 6.2)	5.1 C	8.5 H
3.1	5.2 A, D	8.6
3.2 F (see 6.2)	5.2 D	9.1 F
3.3 C, D	5.5	9.2 C, D
3.4 E	6.1 A (see 6.2)	10.1 A, D, E

* Additional guidance materials provided. See appendices.

Key Terms

This section defines key terms used throughout the Waterfront Revitalization Program.

Coastal Zone

The Coastal Zone, defined by the Coastal Zone Boundary, is the geographic area where WRP review applies. Pursuant to federal statute, the boundary encompasses all land and water that imposes a direct and significant impact on coastal waters, including all waterfront land up to the first upland street at least 300 feet inland, as well as all coastal wetlands, waterfront parks, floodplains, and other significant coastal features. The Coastal Zone Boundary extends water-ward to the Westchester, Nassau County, and New Jersey boundaries, as well as to the three-mile territorial limit in the Atlantic Ocean. The boundary extends landward to encompass the following coastal features:

- Staten Island Bluebelts
- Tidal and freshwater wetlands
- Coastal floodplains and Flood Hazard Areas, including the 0.2 percent annual chance floodplain
- Erosion hazard areas
- Coastal Barrier Resources Act Areas
- Steep slopes
- Parks and beaches
- Visual access and views of coastal waters and the harbor
- Historic, archaeological, and cultural sites closely associated with the coast
- Special zoning districts

The Coastal Zone Boundary also includes the following special area designations:

- Significant Maritime and Industrial Areas
- Arthur Kill Ecologically Sensitive Maritime and Industrial Area
- Recognized Ecological Complexes
- Significant Coastal Fish and Wildlife Habitats
- Special Natural Waterfront Areas

Federal lands and facilities are excluded from the Coastal Zone; however, in accordance with federal legislation, Federal activities conducted on Federal lands that may affect the resources within the Coastal Zone may be subject to consistency review with New York City's WRP.

Special Area Designations

The WRP sets forth five (5) types of special area designations: the Special Natural Waterfront Areas (SNWAs), the Significant Maritime and Industrial Areas (SMIAs), the Arthur Kill Ecologically Sensitive Maritime and Industrial Area (ESMIA), the Priority Marine Activity Zones (PMAZs), and the Recognized Ecological Complexes (RECs). Maps depicting the boundaries of all of these area designations are in Part III of the WRP report and on DCP's website. Within each of these areas, certain priority policies set forth in the WRP are weighted more heavily over other policies. Therefore, some policies may be more or less relevant in a consistency review depending on whether a proposed activity would occur in an area characterized as most appropriate for redevelopment, working waterfront uses, natural resource protection, or public use.

Special Natural Waterfront Areas (SNWA)

The SNWAs are large areas with significant open spaces and concentrations of the natural resources including wetlands, habitats, and buffer areas. Each of the SNWAs has a combination of important

coastal ecosystem features, many of which are recognized and protected in a variety of regulatory programs, including the Significant Coastal Fish and Wildlife Habitats, Coastal Erosion Hazards Areas, and Tidal and Freshwater Wetlands.

Locations: East River/Long Island Sound, including a major part of Flushing Bay; Jamaica Bay; and Northwestern Staten Island Harbor Herons Area

Priority Policy: 4.1: Protect and restore the ecological quality and component habitats and resources within the Special Natural Waterfront Areas.

Significant Maritime and Industrial Areas

SMIAs are areas especially valuable as industrial areas and working waterfronts, due to their location and site conditions. The criteria used to delineate these areas generally include concentrations of M2 and M3 zoned land; suitable hydrographic conditions for maritime-related uses; presence of or potential for intermodal transportation, marine terminal and pier infrastructure; concentrations of water-dependent and industrial activity; relatively good transportation access and proximity to markets; relatively few residents; and availability of publicly owned land.

Locations: South Bronx, Newtown Creek, Brooklyn Navy Yard, Red Hook Container Terminal, Sunset Park/Erie Basin, Kill Van Kull, and Staten Island West Shore

Priority Policy: 2.1: Promote water-dependent and industrial uses in Significant Maritime and Industrial Areas.

Arthur Kill Ecologically Sensitive Maritime and Industrial Area*

The ESMIA on the West Shore of Staten Island promotes industrial development in concert with preservation and enhancement of ecological resources. The area is both well suited for a mix of maritime and industrial development—with large tracts of vacant, industrially zoned land, close proximity to the New York Container Terminal, connections to rail and highways, and access to deep water—and is home to among the most extensive concentrations of intact tidal wetlands in the city.

Location: West Shore of Staten Island along the Arthur Kill

Priority Policies:

2.2 Encourage a compatible relationship between working waterfront uses, upland development and natural resources within the Ecologically Sensitive Maritime and Industrial Area.

4.2: Protect and restore the ecological quality and component habitats and resources within the Ecologically Sensitive Maritime and Industrial Area.

Recognized Ecological Complexes (REC)*

RECs are clusters of valuable natural features which are more fragmented than those in the SNWAs and are often interspersed with developed sites. These sites include protected parkland or sites identified as priority acquisition or restoration sites by local, state, and regional plans. Many are substantially environmentally deteriorated and require an active approach to restoration.

Example Locations: Protected parkland, areas designated as Forever Wild Preserves, and other priority acquisition or restoration sites identified from a variety of science-based plans and reports.

Priority Policy: 4.4: Identify, remediate and restore ecological functions within Recognized Ecological Complexes.

Priority Marine Activity Zones*

The Priority Marine Activity Zones are areas with concentrations of waterborne transportation uses that support the city's waterborne transportation and maritime activities. These areas are characterized by shorelines used for vessel docking, berthing, or tie-up and where the maritime infrastructure—such as bulkheads, docks, piers, and fendering—is designed to support such uses.

Example Locations: Majority of the 7 Significant Maritime and Industrial Areas; maritime clusters in Eastchester, Flushing Bay, southeast State Island; cruise terminals, ferry landings, commercial marinas, and others.

Priority Policy: 3.5: In Priority Marine Activity Zones, support the ongoing maintenance of maritime infrastructure for water-dependent uses.

City Coastal Commission

The WRP designates the City Planning Commission, acting as the City Coastal Commission, and the Department of City Planning with responsibility for administering the WRP, and provides that local discretionary actions that occur in the Coastal Zone are subject to review and determination of consistency with the local coastal area management policies contained herein.

Coastal Erosion Hazard Area (CEHA)

In these areas, mapped and regularly reviewed by the NYS Department of Environmental Conservation (DEC), activities are regulated to minimize or prevent damage or destruction to structures, buildings, property, natural protective features, and other natural resources, and to protect human life. Permits are required for most activities in a designated Coastal Erosion Hazard Area.

FEMA Flood Insurance Rate Maps (FIRMs)

The official flood map, on which FEMA has delineated the 1% Annual Chance Floodplain or Special Flood Hazard Area (SFHA), 0.2% annual floodplain (Shaded X zone), Base Flood Elevations (BFEs) and floodways.

FEMA Preliminary Flood Insurance Rate Maps (PFIRMs)

The 2015 PFIRMs are currently the most recent Flood Insurance Rate Maps for New York City issued by FEMA. In October 2016, FEMA announced that the City won its appeal of the PFIRMs and has agreed to revise New York City's flood maps. For now, the 2015 PFIRMs are in use for building code, zoning, and planning purposes, while the 2007 FIRMs remain in use for flood insurance purchase requirements.

Significant Coastal Fish and Wildlife Habitats (SCFWH)

Per the NYS Waterfront Revitalization and Coastal Resources Act (Executive Law of New York, Article 42) NYSDEC recommends for designation by the Department of State areas it considers significant coastal fish and wildlife habitats. These are habitats that are essential to the survival of a large portion of a particular fish and wildlife population; that support populations of protected species; that support fish and wildlife populations that have significant commercial, recreational, or educational value; and/or that are types not commonly found in the state or region. For each designated SCFWH site, a habitat map and narrative are created to provide site-specific information. There are over 250 SCFWH sites designated statewide. New York City contains a number of SCFWHs, including portions of the Hudson River, Jamaica Bay, Flushing Meadows Corona Park, and Freshkills Park.

Tidal Wetlands Protection Program

To implement the State policy to preserve and protect tidal wetlands, NYSDEC created the Tidal Wetlands Protection Program, which regulates all tidal wetlands identified on maps prepared by the NYSDEC and adjacent areas. For New York City, adjacent areas generally include the area within 150 feet of the most landward boundary of the tidal wetland, with certain exceptions. Roadways (built prior to August 20, 1977), railroad lines, bulkheads, and a ten foot rise in elevation are examples of physical conditions that can limit the extent of the buffer or adjacent area (6 NYCRR Part 661.4). Permits are required for most activities within tidal wetlands and adjacent areas.

Essential Fish Habitat (EFH)

EFH portions of the New York Harbor waterways are listed by the National Marine Fisheries Service (NMFS) as essential for one or more life stages of commercially and/or recreationally important fishes. This designation can limit, typically via the permitting process, the types and timing of in-water work. Early coordination with NMFS as part of the CEQR process can identify potential constraints on work schedules (environmental windows) or the need for additional habitat protection techniques, usually as “best management practices” or BMPs, such as silt curtains or preferred dredging techniques.

Freshwater Wetlands Act

The NYS Freshwater Wetlands Act requires NYSDEC to map freshwater wetlands protected by the Act (12.4 acres or greater in size containing wetland vegetation characteristic of freshwater wetlands as specified in the Act). Around each mapped wetland is a protected 100-foot buffer. In accordance with the Act, the NYSDEC ranks wetlands in one of four classes that range from Class I, which represents the greatest benefits and is the most restrictive, to Class IV. The permit requirements are more stringent for a Class I wetland than for a Class IV wetland. Certain activities (e.g., normal agricultural activities, fishing, hunting, hiking, swimming, camping or picnicking, routine maintenance of structures and lawns, and selective cutting of trees and harvesting fuel wood) are exempt from regulation. Activities that could have negative impact on wetlands are regulated and require a permit if conducted in a protected wetland or its adjacent area.

Section 404 of the Federal Clean Water Act: Dredge and Fill

Section 404 of the Federal Clean Water Act (33 USC 1344, jointly administered by US Environmental Protection Agency [USEPA] and the United States Army Corps of Engineers [USACE]) prohibits the discharge of dredged or fill material into the waters of the United States (including certain wetlands) without a permit from the USACE. These activities are regulated through USACE Nationwide, Regional General, or Individual Permits.

Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403)

Section 10 requires a permit for construction of structures on or affecting navigable waters of the United States. For the permit to be issued, the project must not obstruct or alter navigable waters, present a significant adverse effect on the aquatic environment, or result in violations of water quality criteria. Similar to Section 404 of the Clean Water Act, these activities can be authorized by USACE Nationwide, Regional General, or Individual Permits.

* Indicates a new or substantially modified term in the 2012-2013 revisions of the WRP.

Consistency Review

What is WRP consistency review?

Local, state and federal actions affecting the Coastal Zone are reviewed to assess the consistency of a proposed action with the ten policies set forth in the WRP.

The New York City Consistency Assessment Form (CAF) assists applicants in identifying the relevant WRP policies and evaluating the proposed action's consistency with the WRP. It should be completed when a local, state or federal application is prepared. The completed form and accompanying information are used by the New York State Department of State, the New York City Department of City Planning and other city or state agencies in their review of the applicant's certification of consistency.

When is WRP consistency review required?

WRP consistency review is required for any project that:

- Are located within the Coastal Zone boundary AND
- Requires at least one of the following:
 - A local discretionary action, such as a City Planning Commission action or a city capital project, subject to City Environmental Quality Review. (CEQR)
 - A state agency action or program, subject to State Environmental Quality Review (SEQR) and WRP consistency review by the relevant state agency. (See Appendix A for *State Activities Which Should Be Undertaken in a Manner Consistent with the LWRP*)
 - A federal agency permit/authorization, funding or direct action subject to WRP consistency review by the New York State Department of State (DOS) for the relevant federal agency. (See Appendix A for *Federal Activities Affecting Land and Water Uses and Natural Resources in the Coastal Zone of New York State*)

The NYC Consistency Assessment Form and Policy Assessment

The NYC Consistency Assessment consists of two main components: completion of the NYC CAF and submission of responses to any relevant policies and sub-policies set forth in the WRP. The annotated NYC CAF on the following pages provides additional guidance on how to successfully complete the form and policy assessment.

The CAF directs applicants to review the project for consistency with the WRP policies, which are listed in Section F thereof and spelled out in detail within the WRP program document. For each policy, applicants must indicate whether the project will *promote* or *hinder* the policy, or whether the policy is *not applicable*. When assessing each policy, applicants should first review the full policy language, including all sub-policies, contained within **Part II** of the WRP program document.

Note that the policies set forth in the WRP provide general goals for the city's waterfront as a whole and more specific goals for portions of the waterfront that have notable characteristics. Accordingly, the relevance of each applicable policy may vary depending upon the project type, its associated actions, and where it is located. A policy may be considered applicable to a proposed project if it is relevant to the project's site, surroundings, involved actions, or other related conditions.

Further, the WRP sets forth several special area designations. Maps depicting the boundaries of all of these area designations are included within the WRP. Within each of these areas, certain policies set forth in the WRP may be prioritized over other policies. Therefore, some policies may be more or less relevant in a consistency review depending on whether the proposed activity would occur in an area characterized as most appropriate for redevelopment, working waterfront uses, natural resource protection, or public use. For example, wetland restoration is a more relevant objective in areas mapped as Special Natural

Waterfront Areas or Recognized Ecological Complexes, while the promotion of water-dependent industry is more relevant along the working waterfront and in areas mapped as Significant Maritime and Industrial Areas.

For those policies checked *Promote* or *Hinder* on the CAF, the CAF must be accompanied by a written assessment of the effects of the proposed activity on the relevant policies. No statement is needed when a policy is *not applicable*. If the proposed action *promotes* a policy, the assessment should describe how the action would be consistent with the goals of the policy. If the proposed action *hinders* a policy, the assessment should consider any practical means of altering or modifying the project to eliminate or reduce the hindrance. In determining whether, overall, the project is consistent with the WRP, policies that would be advanced by the project should be balanced against those that would be hindered by the project. If reasonable modifications to eliminate or reduce a hindrance are not possible, consideration should be given as to whether the hindrance is of such a degree as to be substantial.

If a project or action is found to substantially hinder any WRP policy, the City Coastal Commission (CCC), or the CEQR Lead Agency with the concurrence of the CCC, may approve the project if it finds that:

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

Such finding shall constitute a determination that the project is consistent with the WRP.

Applicants may be reluctant to indicate that a proposed project may potentially hinder the achievement of a stated policy on the NYC CAF, mistakenly believing that indicating so will suggest that a proposed project will be viewed as inconsistent with the WRP policy. However inconsistency with one or more policies does not necessarily equate to inconsistency, overall, with the WRP. Acknowledging a policy hindrance provides an opportunity for an applicant to demonstrate that he or she understands the relationship of the WRP to the proposed project when assessing the potential effects on the stated policy. This allows for the identification of reasonable alternatives or modifications and potential mitigation measures. In any case, consistency review by the CCC may identify undisclosed policy hindrances and will have the same effect of requiring the applicant to consider any practical means of altering or modifying the project.

When an applicant completes a NYC CAF before a thorough appraisal of potential issues affecting the site has been completed, errors or omissions in the completion of a WRP assessment can potentially occur and may require a resubmission later in the project development process. For example, early in the environmental review process, an applicant may not know about any history of underground fuel tanks, oil spills, or other form of petroleum product use or storage. In the absence of understanding this site history before the applicant elects to prepare a NYC CAF, it cannot be assumed that the project will not have any potential effects toward the achievement of Policy 7.2: Prevent and remediate discharge of petroleum products. Where the applicant elects to complete the NYC CAF prior to conducting the necessary testing, an affirmative response is required and the explanation set forth in the detailed analysis must then address the steps the applicant will take to evaluate site conditions in order to further assess the potential effects of the proposed project toward the achievement of the identified relevant policy--in this case Policy 7.2.

Completing the NYC Consistency Assessment Form

The following diagrams demonstrate how to complete the Waterfront Revitalization Program's Consistency Assessment Form (CAF). The Sample Policy Assessment (Page 22) provides an example of an appropriate response to the policy references listed in Section F.

<small>FOR INTERNAL USE ONLY</small> Date Received: _____	WRP No. _____ DOS No. _____
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NEW YORK CITY WATERFRONT REVITALIZATION PROGRAM
Consistency Assessment Form

Proposed actions that are subject to CEQR, ULURP or other local, state or federal discretionary review procedures, and that are within New York City's Coastal Zone, must be reviewed and assessed for their consistency with the [New York City Waterfront Revitalization Program \(WRP\)](#) which has been approved as part of the State's Coastal Management Program.

This form is intended to assist an applicant in certifying that the proposed activity is consistent with the WRP. It should be completed when the local, state, or federal application is prepared. The completed form and accompanying information will be used by the New York State Department of State, the New York City Department of City Planning, or other city or state agencies in their review of the applicant's certification of consistency.

A. APPLICANT INFORMATION

Name of Applicant: _____

Name of Applicant Representative: _____

Address: _____

Telephone: _____ Email: _____

Project site owner (if different than above): _____

B. PROPOSED ACTIVITY
If more space is needed, include as an attachment.

1. Brief description of activity

2. Purpose of activity

NYC WRP CONSISTENCY ASSESSMENT FORM – 2016

1

This should be the primary contact for any questions about the application.

If descriptions do not fit, attach additional sheets.

Projects may span multiple boroughs.

For projects, such as dredging, with no applicable Tax Block/Lot or Street Address, indicate N/A.

Coordinating among permitting actions is a key part of WRP consistency review. All local, state or federal actions or approvals that may be needed to facilitate the project should be checked, even if the application is part of a specific action.

C. PROJECT LOCATION

Borough: _____ Tax Block/Lot(s): _____
Street Address: _____
Name of water body (if located on the waterfront): _____

D. REQUIRED ACTIONS OR APPROVALS

Check all that apply.

City Actions/Approvals/Funding

City Planning Commission Yes No
 City Map Amendment Zoning Certification Concession
 Zoning Map Amendment Zoning Authorizations UDAAP
 Zoning Text Amendment Acquisition – Real Property Revocable Consent
 Site Selection – Public Facility Disposition – Real Property Franchise
 Housing Plan & Project Other, explain: _____
 Special Permit
(if appropriate, specify type: Modification Renewal other) Expiration Date: _____

Board of Standards and Appeals Yes No
 Variance (use)
 Variance (bulk)
 Special Permit
(if appropriate, specify type: Modification Renewal other) Expiration Date: _____

Other City Approvals
 Legislation Funding for Construction, specify: _____
 Rulemaking Policy or Plan, specify: _____
 Construction of Public Facilities Funding of Program, specify: _____
 384 (b) (4) Approval Permits, specify: _____
 Other, explain: _____

State Actions/Approvals/Funding

State permit or license, specify Agency: _____ Permit type and number: _____
 Funding for Construction, specify: _____
 Funding of a Program, specify: _____
 Other, explain: _____

Federal Actions/Approvals/Funding

Federal permit or license, specify Agency: _____ Permit type and number: _____
 Funding for Construction, specify: _____
 Funding of a Program, specify: _____
 Other, explain: _____

Is this being reviewed in conjunction with a [Joint Application for Permits](#)? Yes No

For 6, refer to Part III: Maps of the WRP to determine whether a project is located within one of the five Special Area Designations. The maps are also available digitally as GIS files from the Department of City Planning's website. If located in or adjacent to such areas, the policies noted in parentheses should be discussed as part of the WRP Policy assessment in Section F.

When providing a policy assessment, look at the full policy within the WRP (i.e. including sub-policies A, B, C...). The written response needs to address all relevant policies and sub-policies.

E. LOCATION QUESTIONS

1. Does the project require a waterfront site? Yes No
2. Would the action result in a physical alteration to a waterfront site, including land along the shoreline, land under water or coastal waters? Yes No
3. Is the project located on publicly owned land or receiving public assistance? Yes No
4. Is the project located within a FEMA 1% annual chance floodplain? (6.2) Yes No
5. Is the project located within a FEMA 0.2% annual chance floodplain? (6.2) Yes No
6. Is the project located adjacent to or within a special area designation? See [Maps – Part III](#) of the NYC WRP. If so, check appropriate boxes below and evaluate policies noted in parentheses as part of WRP Policy Assessment (Section F).
 - Significant Maritime and Industrial Area (SMIA) (2.1)
 - Special Natural Waterfront Area (SNWA) (4.1)
 - Priority Martine Activity Zone (PMAZ) (3.5)
 - Recognized Ecological Complex (REC) (4.4)
 - West Shore Ecologically Sensitive Maritime and Industrial Area (ESMIA) (2.2, 4.2)

F. WRP POLICY ASSESSMENT

Review the project or action for consistency with the WRP policies. For each policy, check Promote, Hinder or Not Applicable (N/A). For more information about consistency review process and determination, see Part I of the [NYC Waterfront Revitalization Program](#). When assessing each policy, review the full policy language, including all sub-policies, contained within Part II of the WRP. The relevance of each applicable policy may vary depending upon the project type and where it is located (i.e. if it is located within one of the special area designations).

For those policies checked Promote or Hinder, provide a written statement on a separate page that assesses the effects of the proposed activity on the relevant policies or standards. If the project or action promotes a policy, explain how the action would be consistent with the goals of the policy. If it hinders a policy, consideration should be given toward any practical means of altering or modifying the project to eliminate the hindrance. Policies that would be advanced by the project should be balanced against those that would be hindered by the project. If reasonable modifications to eliminate the hindrance are not possible, consideration should be given as to whether the hindrance is of such a degree as to be substantial, and if so, those adverse effects should be mitigated to the extent practicable.

		Promote	Hinder	N/A
I	Support and facilitate commercial and residential redevelopment in areas well-suited to such development.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1.1	Encourage commercial and residential redevelopment in appropriate Coastal Zone areas.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1.2	Encourage non-industrial development with uses and design features that enliven the waterfront and attract the public.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1.3	Encourage redevelopment in the Coastal Zone where public facilities and infrastructure are adequate or will be developed.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1.4	In areas adjacent to SMIA's, ensure new residential development maximizes compatibility with existing adjacent maritime and industrial uses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1.5	Integrate consideration of climate change and sea level rise into the planning and design of waterfront residential and commercial development, pursuant to WRP Policy 6.2.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

For 4 & 5, For Flood Zone locations, FEMA's Flood Insurance Rate Maps (FIRMs) should be referenced. Check both the effective FIRMs and Preliminary FIRMs, available at www.region2coastal.com. If "yes" for either, Policy 6.2 should be assessed.

A policy assessment should be provided anytime a project may promote or hinder a policy.

Significant Coastal Fish and Wildlife Habitats are viewable on the NYS Coastal Boundary Map at: www.dos.ny.gov/opd/atlas.

	Promote	Hinder	N/A
2 Support water-dependent and industrial uses in New York City coastal areas that are well-suited to their continued operation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.1 Promote water-dependent and industrial uses in Significant Maritime and Industrial Areas.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.2 Encourage a compatible relationship between working waterfront uses, upland development and natural resources within the Ecologically Sensitive Maritime and Industrial Area.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.3 Encourage working waterfront uses at appropriate sites outside the Significant Maritime and Industrial Areas or Ecologically Sensitive Maritime Industrial Area.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.4 Provide infrastructure improvements necessary to support working waterfront uses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.5 Incorporate consideration of climate change and sea level rise into the planning and design of waterfront industrial development and infrastructure, pursuant to WRP Policy 6.2.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3 Promote use of New York City's waterways for commercial and recreational boating and water-dependent transportation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.1 Support and encourage in-water recreational activities in suitable locations.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.2 Support and encourage recreational, educational and commercial boating in New York City's maritime centers.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.3 Minimize conflicts between recreational boating and commercial ship operations.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.4 Minimize impact of commercial and recreational boating activities on the aquatic environment and surrounding land and water uses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.5 In Priority Marine Activity Zones, support the ongoing maintenance of maritime infrastructure for water-dependent uses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4 Protect and restore the quality and function of ecological systems within the New York City coastal area.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.1 Protect and restore the ecological quality and component habitats and resources within the Special Natural Waterfront Areas.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.2 Protect and restore the ecological quality and component habitats and resources within the Ecologically Sensitive Maritime and Industrial Area.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.3 Protect designated Significant Coastal Fish and Wildlife Habitats.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.4 Identify, remediate and restore ecological functions within Recognized Ecological Complexes.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.5 Protect and restore tidal and freshwater wetlands.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.6 In addition to wetlands, seek opportunities to create a mosaic of habitats with high ecological value and function that provide environmental and societal benefits. Restoration should strive to incorporate multiple habitat characteristics to achieve the greatest ecological benefit at a single location.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.7 Protect vulnerable plant, fish and wildlife species, and rare ecological communities. Design and develop land and water uses to maximize their integration or compatibility with the identified ecological community.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.8 Maintain and protect living aquatic resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

See Appendix B, “Climate Adaptation Guidance” for additional steps on assessing consistency with Policy 6.2.

	Promote	Hinder	N/A
5 Protect and improve water quality in the New York City coastal area.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.1 Manage direct or indirect discharges to waterbodies.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.2 Protect the quality of New York City's waters by managing activities that generate nonpoint source pollution.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.3 Protect water quality when excavating or placing fill in navigable waters and in or near marshes, estuaries, tidal marshes, and wetlands.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.4 Protect the quality and quantity of groundwater, streams, and the sources of water for wetlands.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.5 Protect and improve water quality through cost-effective grey-infrastructure and in-water ecological strategies.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6 Minimize loss of life, structures, infrastructure, and natural resources caused by flooding and erosion, and increase resilience to future conditions created by climate change.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.1 Minimize losses from flooding and erosion by employing non-structural and structural management measures appropriate to the site, the use of the property to be protected, and the surrounding area.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.2 Integrate consideration of the latest New York City projections of climate change and sea level rise (as published in <i>New York City Panel on Climate Change 2015 Report, Chapter 2: Sea Level Rise and Coastal Storms</i>) into the planning and design of projects in the city's Coastal Zone.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.3 Direct public funding for flood prevention or erosion control measures to those locations where the investment will yield significant public benefit.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.4 Protect and preserve non-renewable sources of sand for beach nourishment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7 Minimize environmental degradation and negative impacts on public health from solid waste, toxic pollutants, hazardous materials, and industrial materials that may pose risks to the environment and public health and safety.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.1 Manage solid waste material, hazardous wastes, toxic pollutants, substances hazardous to the environment, and the unenclosed storage of industrial materials to protect public health, control pollution and prevent degradation of coastal ecosystems.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.2 Prevent and remediate discharge of petroleum products.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.3 Transport solid waste and hazardous materials and site solid and hazardous waste facilities in a manner that minimizes potential degradation of coastal resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8 Provide public access to, from, and along New York City's coastal waters.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8.1 Preserve, protect, maintain, and enhance physical, visual and recreational access to the waterfront.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8.2 Incorporate public access into new public and private development where compatible with proposed land use and coastal location.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8.3 Provide visual access to the waterfront where physically practical.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8.4 Preserve and develop waterfront open space and recreation on publicly owned land at suitable locations.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Promote	Hinder	N/A
8.5 Preserve the public interest in and use of lands and waters held in public trust by the State and City.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8.6 Design waterfront public spaces to encourage the waterfront's identity and encourage stewardship.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9 Protect scenic resources that contribute to the visual quality of the New York City coastal area.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9.1 Protect and improve visual quality associated with New York City's urban context and the historic and working waterfront.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9.2 Protect and enhance scenic values associated with natural resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10 Protect, preserve, and enhance resources significant to the historical, archaeological, architectural, and cultural legacy of the New York City coastal area.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10.1 Retain and preserve historic resources, and enhance resources significant to the coastal culture of New York City.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10.2 Protect and preserve archaeological resources and artifacts.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

G. CERTIFICATION

The applicant or agent must certify that the proposed activity is consistent with New York City's approved Local Waterfront Revitalization Program, pursuant to New York State's Coastal Management Program. If this certification cannot be made, the proposed activity shall not be undertaken. If this certification can be made, complete this Section.

"The proposed activity complies with New York State's approved Coastal Management Program as expressed in New York City's approved Local Waterfront Revitalization Program, pursuant to New York State's Coastal Management Program, and will be conducted in a manner consistent with such program."

Applicant/Agent's Name: _____

Address: _____

Telephone: _____ Email: _____

Applicant/Agent's Signature: _____

Date: _____

If it has been determined that the project is, overall, consistent with the WRP, this certification must be signed prior to submission of the CAF for review.

SAMPLE POLICY ASSESSMENT

For all responses marked as “Promote” or “Hinder”, provide a consistency assessment statement
Example:

Policy 4.4: Identify, remediate and restore ecological functions within Recognized Ecological Complexes.

The Project Site is located adjacent to the Alley Pond Creek Recognized Ecological Complex. This site is highlighted in the Hudson Raritan Estuary Comprehensive Restoration Plan as a target restoration site for coastal wetlands, maritime forests and habitat for fish, crab and lobsters. The Proposed Development would protect and enhance natural resources and habitats by restoring the protective vegetative buffer area between the Project Site and the natural features and wetlands, using native species. In addition, a Storm Water Pollution Prevention Plan (SWPPP) will be implemented that will control and manage runoff both during the construction and operation of the Proposed Development; this SWPPP includes an approximately 1 acre green roof atop the Proposed Development’s structures and a rain garden that will retain and treat stormwater before it discharges. For these reasons, the Proposed Development advances this policy.

Overview of consistency review process and determination

	Actions subject to WRP Consistency Review	How is Consistency Determination made	Consistency Assessment Submission
Local	City Planning Commission (CPC) actions (e.g. ULURP) subject to City Environmental Quality Review (CEQR)	The City Planning Commission , acting as the City Coastal Commission (CCC), makes the consistency determination.	Include <i>WRP Consistency Assessment Form (WRP CAF)</i> with <i>policy assessments</i> in “Land Use, Zoning and Public Policy Chapter” of EAS/EIS.
	City agency actions (no involved CPC action) subject to CEQR	The Lead City Agency makes the consistency determination, and the CCC or NYC DCP must concur.*	Include <i>WRP CAF</i> with <i>policy assessments</i> in “Land Use, Zoning and Public Policy Chapter” of EAS/EIS. Send copy to DCP for review.
State**	Direct Actions, Funding Actions, and Permits Granted by a State Agency subject to SEQRA review (e.g., State highway construction, NYS Dept. of Environmental Conservation Permits)	Lead State Agency determines consistency and notifies NYS Dept. of State.	Send <i>WRP CAF</i> with <i>policy assessments</i> , along with <i>SEQRA documents</i> , to DCP. See Appendix C (Guidelines for Notification and Review of Federal Agency and New York State Agency Actions). Also, see NYS Dept. of State instructions for State Agency Actions .
Federal**	Direct Actions or Permits Granted by a Federal Agency (e.g., FAA Funding, U.S. Army Corps. Permits) (See Appendix A for a list of Federal Activities Affecting Land and Water Uses and Natural Resources in the NYS Coastal Zone)	NYS Dept. of State (DOS) concurs with or objects to an applicant’s determination. DOS consults with DCP to discuss possible policy concerns that DCP has identified as part of its own review.*	Send <i>consistency assessment</i> and <i>NYC CAF</i> , along with a copy of other <i>permit applications</i> and <i>environmental review documents</i> , to DCP. See Appendix C (<i>Guidelines for Notification and Review of Federal Agency and New York State Agency Actions</i>). Also, see NYS Dept. of State instructions for Federal Permits, Funding or Agency Actions .

* The City Planning Commission, acting as the City Coastal Commission (CCC), and the Department of City Planning (DCP) are responsible for administering the WRP. The CCC reviews all WRP consistency assessments for actions that come before the City Planning Commission, as well as those that have the potential to substantially hinder one or more policies of the WRP. The DCP reviews all WRP consistency assessments that are not otherwise required to be reviewed by the CCC and administers all inter-agency coordination.

** For projects that require State and Federal consistency review, such as with Joint Permit Applications, WRP consistency review materials should be submitted to all involved agencies, including the NYC Department of City Planning.

Local Actions

Review of local actions is coordinated with existing regulatory processes. In most instances, WRP review occurs as part of the City Environmental Quality Review (CEQR) process. Local actions that require WRP review include discretionary actions such as rezonings, special permits, and city capital projects.

When is WRP Consistency Review required for Local Actions?

WRP Consistency Review is required for local discretionary actions that are:

- a) Located within the Coastal Zone and
- b) Subject to CEQR (Type I or Unlisted Actions only)

What is the process for determining WRP consistency for local actions?

For local actions that require WRP consistency review, applicants must complete the NYC Consistency Assessment Form (CAF). The CAF and consistency assessment are integrated into CEQR documents (Land Use, Zoning and Public Policy Chapter).

All WRP consistency assessments should be sent to the Waterfront and Open Space Division at the Department of City Planning, which is responsible for the coordination of the review. All other relevant materials, such as the EAS/EIS, ULURP application and/or other supporting documents describing the project, should be included. After review of the CAF and other related materials, the Department of City Planning (DCP) may request additional information about the project. Where DCP, on behalf of the City Planning Commission (CPC), is the CEQR Lead Agency, the WRP CAF, policy assessments, and other supporting materials may be provided as part of the EAS/EIS submitted to DCP for environmental review as part of an application's pre-certification process.

How is a consistency determination made?

For projects or actions requiring CPC approval, the CPC, acting as the City Coastal Commission (CCC), makes the consistency determination.

For all other actions subject to CEQR, the CEQR Lead Agency makes the consistency determination, and DCP must concur. The rules for the coordination of WRP review where the City Planning Commission is not the Lead Agency are contained within Chapter 4 (City Coastal Commission Procedures) of Title 62 of the Rules of the City of New York.

If a project or action is found to hinder any WRP policy, the applicant should consider any practical means of altering or modifying the project to avoid or reduce the hindrance. If a project or action is found to substantially hinder any WRP policy, the CCC, or the CEQR Lead Agency with the concurrence of the CCC, may approve the project if it finds that:

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

Such finding shall constitute a determination that the project is consistent with the WRP.

Related Regulations
RCNY 62 Chapter 4

State Actions

When is WRP Consistency Review required for State Actions?

As part of State Consistency review process, WRP Consistency Review is required for state actions that satisfy the following three conditions:

- 1) A "Type I" or "Unlisted" action as defined by the State Environmental Quality Review Act (SEQRA);
- 2) Located in New York City's Coastal Zone; and
- 3) Being taken pursuant to a state agency program or activity which has been identified by the Secretary of State as likely to affect the policies and purposes of the LWRP. (See Appendix A of the WRP for State and Federal Actions and Programs Which Should Be Undertaken in a Manner Consistent with the LWRP).

This includes the following types of actions:

- 1) Planning and Rule Making Actions
- 2) Direct Actions by a State Agency, such as a State Capital Project
- 3) Permitting Actions

What is the process for determining WRP consistency for State actions?

At the state level, consistency determinations are coordinated with the State Environmental Quality Review process. The State Agency must include an assessment of the action's consistency with the WRP policies prior to a final decision on the EIS or determination of no significant effect. The relevant State agency will consult with the Department of City Planning and the City Planning Commission (acting as the City Coastal Commission) during the State agency's review of an action for consistency with the New York City WRP.

All WRP consistency assessment documents should be sent to the Waterfront and Open Space Division at the Department of City Planning, which is responsible for the coordination of the review. All other relevant materials, such as the SEQRA documents, Joint Application Form for Permits and/or other supporting documents describing the project, should be included in the application package. After review of the CAF and other application materials, the Department of City Planning (DCP) may request additional information about the project.

Upon receipt of notification from a state agency, DCP, on behalf of the City Coastal Commission (CCC), will evaluate the project against the policies and purposes of the WRP, and notify the state agency of its finding.

How is a consistency determination made?

The Lead Agency for SEQRA must make a finding that the action is "consistent to the maximum extent practicable" with the WRP. The Department of City Planning, on behalf of the CCC, will issue its recommendation to the State agency.

If DCP notifies the state agency that the proposed action conflicts with the WRP, the state agency shall not proceed with its consideration of the action. At the request of either party, this may initiate the resolution of conflicts procedure, moderated by the Secretary of State. For more information, see Appendix C of the WRP: *Guidelines for Notification and Review of State Agency Actions Where Local Waterfront Revitalization Programs are in Effect*.

If the project or action will substantially hinder the achievement of any policy, the State agency may proceed with the action if it certifies instead that the following three requirements are satisfied:

- (1) no reasonable alternatives exist which would permit the action to be taken in a manner that would not substantially hinder the achievement of such policy;
- (2) the action taken will minimize all adverse effects on such policies to the maximum extent practicable; and
- (3) the action will result in an overriding regional or statewide public benefit.

Such certification shall constitute a determination that the action is consistent to the maximum extent practicable with New York City's WRP.

Summary of State Actions

Type of Action	Threshold for Consistency Review	Review Process
Planning and Rule Making Actions	Consistent to the maximum extent practicable	Lead Agency for SEQRA review must send consistency determination to DOS and DCP.
Direct Actions	Consistent to the maximum extent practicable	Lead Agency for SEQRA review must send consistency determination to DOS and DCP.
Permitting Actions	Consistent to the maximum extent practicable	State agency must send consistency determination to DCP. Only send to DOS if there is a federal action associated.

Related Regulations

19 NYCRR Part 600 (Waterfront Revitalization of Coastal Areas and Inland Waterways Act)
 6 NYCRR Part 617 (State Environmental Quality Review)

Federal Actions

When is WRP Consistency Review required for Federal Actions?

WRP Consistency Review is required for the following types of federal actions that are located within or which may affect the Coastal Zone:

1. Federal direct agency activities or development projects;
2. Federal license, permit or other discretionary authorization; and
3. Federal Funding

For the list of all federal actions subject to consistency review with New York State's CMP and with New York City's WRP, please see *New York's Listed Federal Actions Table 2, Federal Activities Affecting Land and Water Uses and Natural Resources in the Coastal Zone of New York State*, established in New York State's CMP document and referenced in Appendix A of the WRP, titled *State and Federal Actions and Programs which should be undertaken in a manner consistent with the LWRP*.

Nationwide Permits from the US Army Corps of Engineers (USACE)

Nationwide Permits (NWP) are a series of permits issued by the US Army Corps of Engineers for certain projects where prior federal consensus allows for a streamlined process for permitting nationwide. States may periodically recommend geographic restrictions or thresholds on activities authorized under the specific NWPs. The NYS Department of State (DOS) provides a list of NWPs that do not require further consistency review, those that always require consistency review, and those that may conditionally require consistency review. See DOS website for which NWPs fall into these categories:

<http://www.dos.ny.gov/opd/programs/consistency/federalpermits.html>

For those NWPs that do require DOS federal consistency review, a copy of the application materials and a WRP Consistency Assessment should also be transmitted to the Department of City Planning.

What is the process for determining WRP consistency for Federal actions?

For federal direct actions, permits and financial decisions, DOS conducts consistency review for federal projects, and coordinates its review with the City Planning Commission, acting as the City Coastal Commission, and the Department of City Planning.

For projects within New York City, applicants should complete the NYC Consistency Assessment Form (CAF), which can be used in lieu of the Federal CAF when submitting to DOS.

In addition to submitting to DOS, all WRP consistency assessments documents should be sent to the Waterfront and Open Space Division at the Department of City Planning, which is responsible for the coordination of the local review. Other relevant materials, such as the SEQOR or NEPA documents, Joint Permit Application, photos, construction drawings, illustrative site plans and/or other supporting documents describing the project, should be included in the application package.

For more information, see Appendix C of the WRP, *Procedural Guidelines for Coordinating NYS Department of State (DOS) and LWRP Consistency Review of Federal Agency Actions*, which outline the procedures for *Direct Actions, Permit and License Actions and Financial Assistance Actions*.

Where DOS objects to an applicant's consistency certification (when applying for licenses or permits) or evaluation (when applying for federal assistance), the federal agency shall not issue the federal license or permit or approve assistance for the activity. Only the federal Secretary of Commerce, under a formal

appeal, may overrule the DOS decision if finding that the activity is consistent with the objectives or purposes of the Coastal Zone Management Act, or if necessary in the interest of national security.

Joint Application Form for Permits

The Joint Application Form for Permits is used for activities subject to federal permitting and also requiring permits that affect streams, waterways, waterbodies, wetlands, coastal areas and sources of water withdrawal issued by several agencies. This is a joint application, not a joint permit. Applicants are required to submit complete applications to each agency involved. This procedure is designed to facilitate the process for applicants, minimize delays in receipt of application materials and facilitate the processing of applications.

Agencies that use the Joint Application for Permit include:

- NYS Department of Environmental Conservation
- NYS Department of State
- NYS Office of General Services
- US Army Corps of Engineers

Summary of Federal Actions

Type of Action	Threshold for Consistency Review	Review Process
Federal agency activities or development projects (Direct Actions)	Federal Agency determines that action is consistent to the “Maximum extent practicable” with the WRP, unless prohibited by federal law	The Federal Agency notifies DOS and DCP of their consistency determination. A copy of the Agency’s determination and supporting analysis is reviewed by DCP and any WRP conflicts are shared with DOS.
Federal license, permit or other discretionary authorization (Indirect Actions)	Applicants for a license, permit or other discretionary authorization from a federal agency must certify to DOS that the proposed activity will be conducted in a manner fully consistent with the WRP.	Applicants notify DOS and DCP of their consistency certification. After conferring with DCP, DOS concurs with or conditionally concurs with the proposed action(s) as certified consistent by the applicant; or objects to the consistency of proposed action(s).
Financial Assistance Actions	Applicants for federal financial assistance to state and local governments for activities anywhere in the coastal area must certify to DOS that the proposed activity will be conducted in a manner fully consistent with the WRP	State and local governments applying for federal assistance must submit a copy of their application to DOS for consistency review and provide a brief evaluation of the proposed activity and any reasonably foreseeable coastal effects to the WRP.

How is the consistency of proposed actions determined?

The Department of City Planning (DCP) will communicate its determination, or that of the CCC, as the case may be, to the New York State Department of State on whether the activity will or will not substantially hinder the achievement of any WRP policy.

Where there is a direct agency action involved and CCC concludes that the project will substantially hinder the achievement of a WRP policy, the CCC will advise DOS whether the action has satisfied the following requirements:

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

DOS will issue the federal consistency decision within the statutory timeframe for review pursuant to the standards in 15 CFR part 930.

Related Regulations

15 CFR Part 930 (Federal Consistency with Approved Coastal Management Programs)

Frequently Asked Questions

What are the origins of the WRP?

In 1972, the Federal Coastal Zone Management Act (CZMA) passed which recognized the nation's coastal resources and directed coastal states to create coastal zone management programs. In 1981, New York State adopted the Waterfront Revitalization of Coastal Areas and Inland Waterways Act. This act enables municipalities to adapt statewide policies to local coastal management programs. New York City was the first municipality in the state to do so in 1982, with the first citywide Waterfront Revitalization Program. The program was revised in 2002 and again in 2013. Today, 34 out of the 35 coastal states in the U.S. have Coastal Zone Management Programs.

Over the past 30 years, thousands of projects have undergone WRP consistency review, ensuring that public and private projects within the Coastal Zone align with the City's planning goals for the waterfront. Through this process, public agencies are able to identify potential conflicts between overlapping regulations and seek modifications to projects so that they comply with all applicable standards and also achieve consistency with the WRP. Through the WRP process, all regulatory bodies and applicants must consider a variety of goals and develop a plan that reconciles competing interests.

How does the WRP relate to Vision 2020: NYC Comprehensive Waterfront Plan?

Vision 2020: NYC Comprehensive Waterfront Plan is a strategic 10-year plan for the city's waterfront. The WRP is a regulatory review tool that reviews individual projects within the Coastal Zone. The 2013 revisions to the WRP offer a mechanism to implement the goals and priorities of *Vision 2020* in projects subject to WRP review.

What is the relationship between WRP review and CEQR?

Local actions within the Coastal Zone and subject to CEQR (i.e. Type I and Unlisted actions) are subject to WRP consistency review. As described in the CEQR Technical Manual, WRP consistency review is to be assessed as part of the Land Use, Zoning and Public Policy Chapter. Although the WRP consistency review is independent from all other environmental sections and must stand on its own, it is supported and conducted with consideration of all the other technical analyses performed as part of the project's environmental assessment under CEQR.

Because the WRP review considers the many laws affecting the coastal area, consideration of a project's overall consistency with the WRP typically requires a comprehensive assessment that includes synthesis of different technical areas covered under CEQR. Therefore, close coordination with the assessment of other technical areas is needed. Although much of the detail of each technical chapter can be cross-referenced, it is important that the discussion of each policy be able to stand on its own within the Land Use, Zoning and Public Policy chapter. In some cases, information supplemental to that provided in the technical analyses may be necessary to complete the WRP consistency evaluation.

What happens if my project has Local, State and Federal actions? Am I required to submit multiple WRP applications?

It is preferred that a submitted Consistency Assessment Form reference the full extent of the proposed work so a project can be reviewed in its totality. An application requiring local, federal and state review can be referenced on a single Consistency Assessment Form (CAF) for the purposes of the Department of City Planning's (DCP) review, and applicants should identify all necessary permits and authorizations and note them on the CAF before submitting application materials to DCP.

As materials are received, DCP will determine whether additional information is needed. For example, if a project originating as a local action is later determined to need a State or Federal permit, DCP may request additional documentation or a revised CAF referencing the changed scope of work. DCP may also request that an applicant coordinate with other regulatory entities prior to completion of our review if it appears that it may be necessary to do so. None of these instances, however, will necessarily require creating an entirely new application. Applicants should consult with other agencies for clarification of their respective requirements for projects that might have various levels of review.