

# Draft Recommendations

## 4th Advisory Committee Meeting

### July 31, 2013



# Agenda

- I. Summary
- II. Context
- III. Precedents
- IV. Recommendations
- V. Next Steps





## Summary

Open industrial uses provide employment and necessary services in New York City. However, many open industrial uses degrade the environment and hamper economic development in industrial areas.

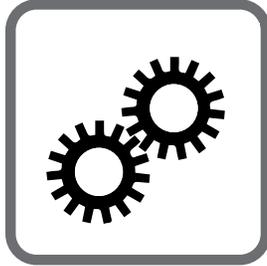
To protect the environment and communities, the City's 1961 Zoning Resolution performance standards for open industrial uses should be replaced by prescriptive site design standards, in light of other regulations and flood hazards.

# Open industrial use types studied

The study focuses on six primary use categories; these categories have been described as generating a more significant environmental impact in New York City.



Concrete  
& Asphalt  
Manufacturing



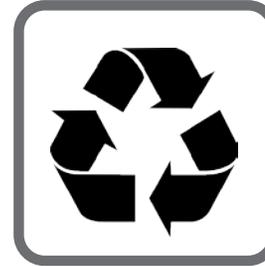
Scrap Metal  
Processing



Auto  
Wrecking



Construction  
& Demolition  
Debris Transfer



Waste  
Recycling



Unenclosed  
Storage of  
Usable Materials

# Objectives

The study supports the City’s working waterfront and industrial businesses, while making industrial areas stronger, safer and more resilient to natural hazards. The study’s three primary objectives are:

Cost-effective measures will seek to improve the business climate and natural environment in industrial areas, retain important industrial businesses, and foster new businesses and jobs in areas near open industrial uses

## ECONOMIC DEVELOPMENT

Feasible

## QUALITY OF LIFE

Improvements that address transportation, and aesthetic concerns, such as parking and urban design.

Effective

Low-Cost

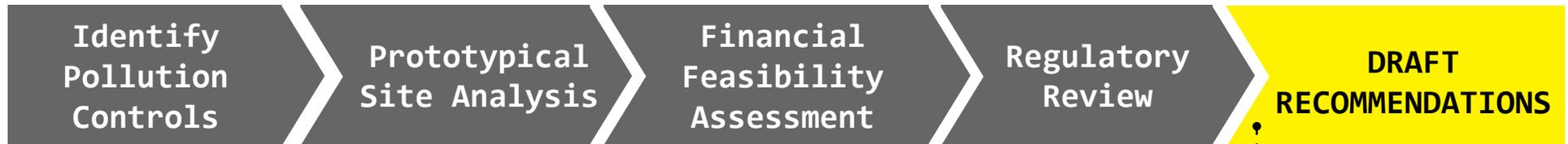
## ENVIRONMENTAL PROTECTION

Reduce emissions and off-site impacts to improve water quality, air quality, and provide protections for hazardous materials in the flood zone.

# Process

The engineering phase of the study began in January 2013, and has been completed in six months. Draft recommendations will be developed over the next several months, OIUS aims to initiate the public review and ULURP process before the end of 2013.

## ENGINEERING STUDY



## PUBLIC OUTREACH



# Draft Recommendations Summary

OIUS recommends a four part proposal that addresses the City's goal of improving the quality and safety of NYC's manufacturing districts.

1

Regulatory Amendments  
applicable to all open industrial uses

2

Regulatory Amendments  
applicable to open storage and activity  
in the flood zone

3

Compliance Framework

4

Incentives and Outreach Programs

# Draft Recommendations Summary

**1**

## Regulatory amendments applicable to all open industrial uses

- Revise zoning to include provisions for cost-effective, pollution prevention controls and site design standards at new and existing open industrial facilities. These provisions will support existing goals for water and air quality and aid enforcement.
- Additional amendments to Building and other codes to support environmental objectives with respect to open industrial uses citywide.

**2**

## Regulatory Amendments applicable to all open storage and activity in the flood zone

- Revise Building Code to include flood-resistant construction standards for new and existing open industrial facilities.

# Draft Recommendations Summary

## 3 Compliance Framework

- Improve coordination between regulatory agencies, consider more effective means for enforcement.
- Ongoing technical discussions with DOB, DEP, DEC with regard to permits and approvals

## 4 Incentives and Outreach Programs

- Create financial incentives for upgrades at new and existing facilities.
- Develop programming that provides technical assistance, educational support, and outreach to open industrial uses.



# Context

The history of New York City's working waterfront, along with contemporary developments in environmental regulation have created a unique context for open industrial facilities.

# Where are they clustered?

The 6 open industrial uses are allowed to operate unenclosed in M1, M2, and M3 zones if they meet the Performance Standards in the Zoning Resolution.

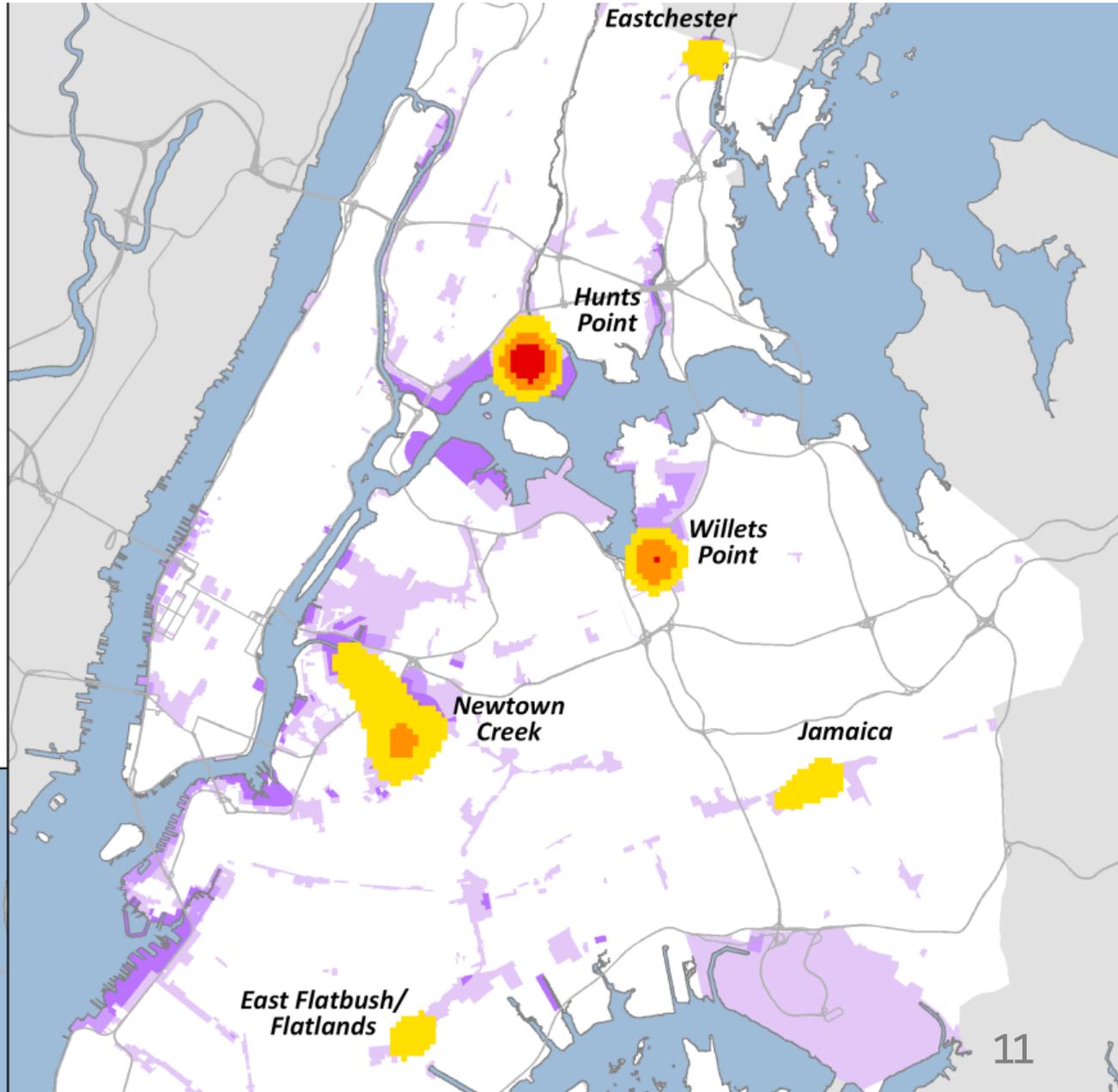
### Areas permitting industrial uses:

- M1 Zoning Districts
- M2 Zoning Districts
- M3 Zoning Districts

### Areas with high concentrations of facilities under study:

- 10 - 20 facilities per square mile
- 20.1 - 30 facilities per square mile
- 30.1 - 46 facilities per square mile

600 open industrial uses surveyed in six areas that covered a combined area of  $\approx$  418 acres



OPEN INDUSTRIAL USES

# Environmental concerns

Certain issues are conditions unique to NYC - High density, small sites, absence of buffering adjacent to residences, tendency of open industrial uses to locate in flood zones.

NOISE



AIR QUALITY



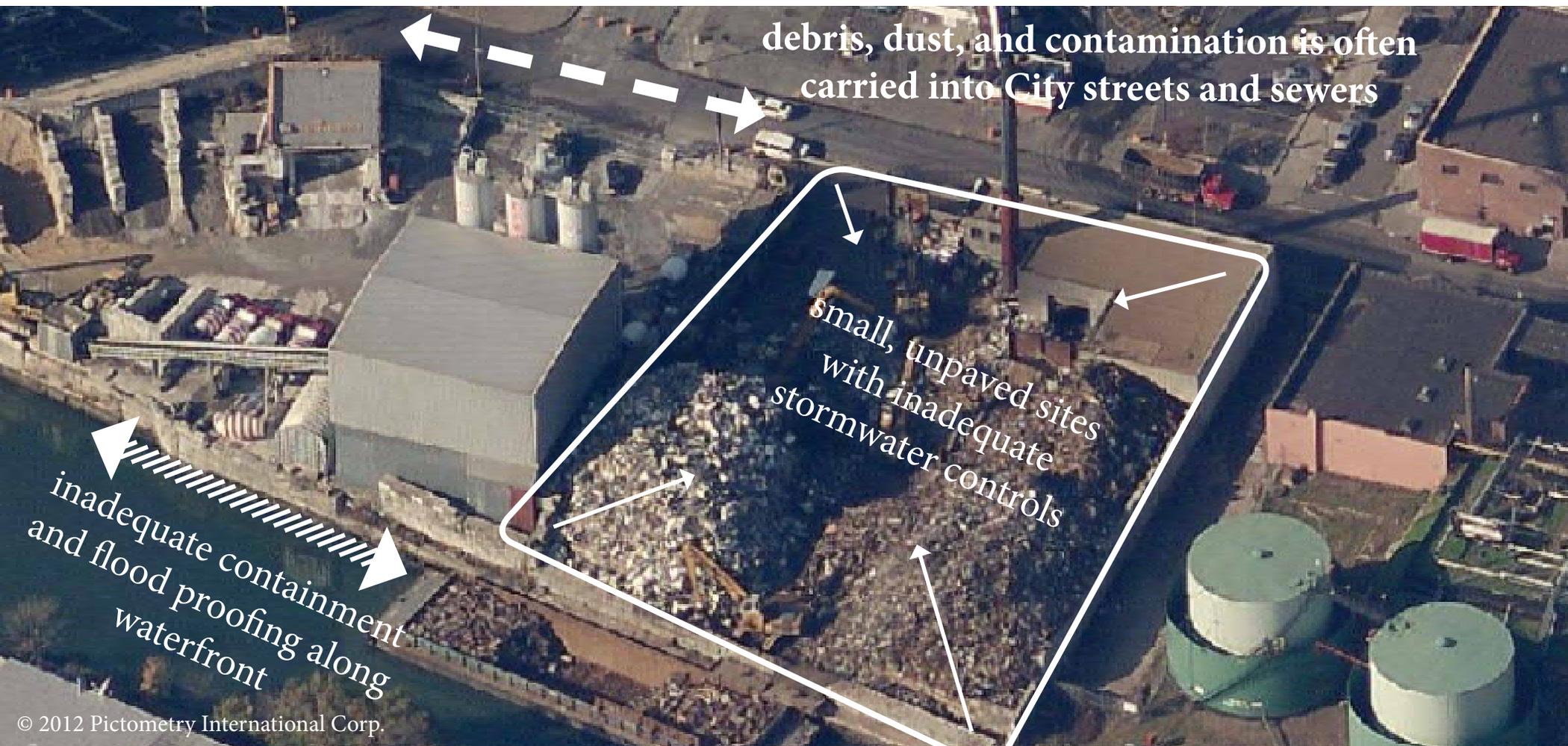
FLOOD RESILIENCE



WATER QUALITY



HAZARDOUS MATERIALS



# Performance Standards

The performance standards in the Zoning Resolution are outdated and inconsistent with other more contemporary environmental regulations and emission standards, with more robust enforcement.

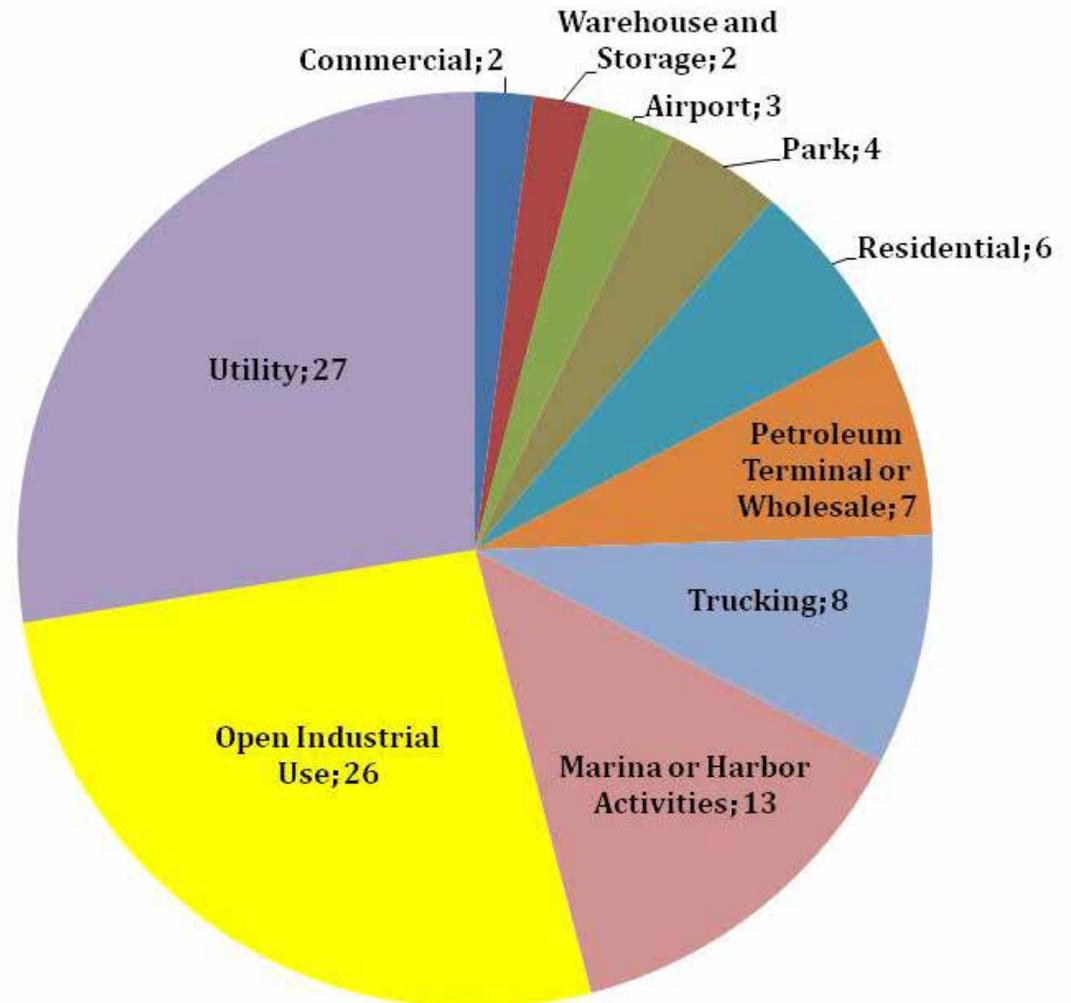
Performance Standard	Issue	Superseded By	Enforcement
42-21 Noise	Outdated measurement	Noise Control Code	DEP
42-22 Vibration	Outdated measurement	Noise Control Code	DEP
42-23 Smoke, Dust, and Other Particulate Matter	Outdated measurement, inconsistent with current standards	Air Pollution Control Code	DEP
42-24 Odorous Matter	Qualitative without enforcement mechanism	Air Pollution Control Code	DEP
42-25 Toxic or Noxious Matter	No enforcement mechanism	Air Pollution Control Code, Right-to-Know	DEP
42-26 Radiation Hazards	No enforcement mechanism	Right-To-Know, Department of Health	DEP, DOH
42-27 Fire and Explosive Hazards	Inconsistent with current standards	Fire Code, Building Code	FDNY, DOB
42-28 Humidity, Heat, and Glare	No enforcement mechanism	Air Pollution Control Code	DEP

# Issues of compliance

Regulations affecting recycling, cement manufacture, scrap metal salvage, auto dismantling, and open storage of usable materials are less rigorous than those affecting construction and demolition waste transfer.

- Rules based on performance and operational standards are difficult to enforce.
- Better regulation should focus on proactive, structural solutions to stormwater management and nuisances
- Insufficient clarity in Building Code to address issue of flood resilience on vulnerable sites or for hazardous material storage.

Clean Water Act Violations in NYC (2008-2013)



SOURCE: Clean Water Act Violations (NPDES Violations) courtesy of EPA ECHO  
[http://www.epa-echo.gov/echo/compliance\\_report\\_water.html](http://www.epa-echo.gov/echo/compliance_report_water.html)



# Precedents

New York City has not updated zoning regulations for open industrial sites since the 1960s. Other cities have demonstrated more rigorous policy approaches to addressing environmental contamination and resiliency issues for these sites.

## PRECEDENTS

# How do other cities handle these issues?

City Name	Requires enclosure?	Paving	Stormwater management plan	Fencing?	Flood standards reinforce FEMA?	Site Plan Review
Baltimore, MD	In Light Industrial (M2) and Heavy Industrial (M3) Districts - Enclosure or Screening	Yes	Yes	Property	All-Hazards Plan for the City of Baltimore	Yes
Boston, MA	No	Yes	Yes	Yes	Yes	Yes
Chicago, IL	In Light Industrial (M2) and Heavy Industrial (M3) Districts		Yes		All-Hazard Mitigation Plan	
Indianapolis, IN	In Heavy Industrial Districts		Joint - City & Private	Storage	MULTI-HAZARD MITIGATION PLAN	
London, UK	Recycling	Yes	Yes	Yes	"Drain London" - surface water flooding plan	Yes
Los Angeles, CA	Concrete and Cement Manufacturing; Auto Dismantling		Yes	Yes	Floodplain Management Report	
Milwaukee, WI	Material Reclamation		Yes		All-Hazard Mitigation Plan	Informal
Newark, NJ	Does not allow open industrial uses	Recommended	Yes	Yes	State DEP	Yes
Philadelphia, PA	No		Yes		Philadelphia Natural Hazard Mitigation Plan	Yes
Portland, OR	No	Recommended	Yes	Yes	Natural Hazard Mitigation Plan	Yes
San Francisco, CA	Concrete Manufacturing, Scrap Metal, Salvage Yards	Yes	Yes	Yes	San Francisco Hazard Mitigation Plan	Yes
Seattle, WA	Heavy Manufacturing	Recommended	Yes	Yes	King County Regional Hazard Mitigation Plan	Yes
Washington D.C.	Recycling and Concrete/Asphalt		Yes	Yes	Recommended - Stormwater Pollution Plans	Yes



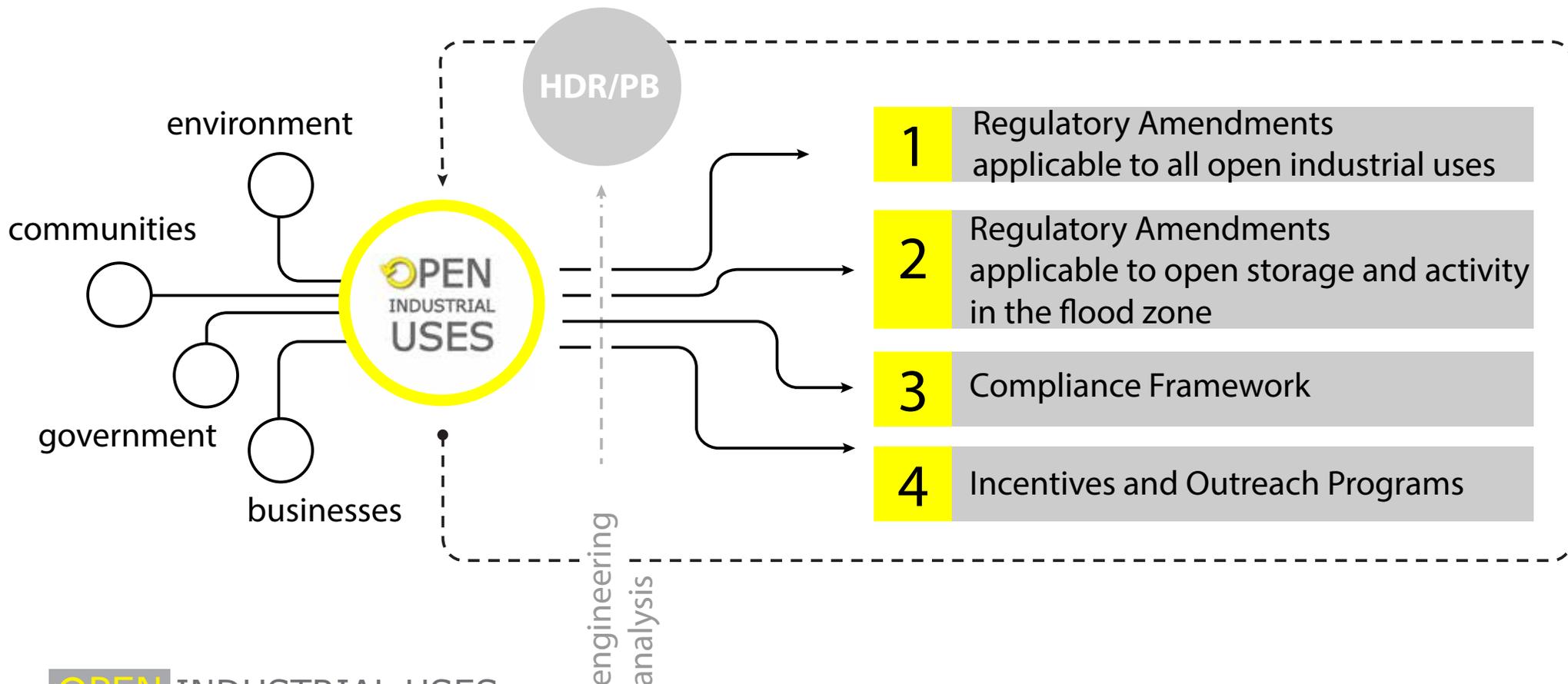
# Draft Recommendations

OIUS recommends a four part proposal that addresses the City's goal of improving the quality and safety of New York City's manufacturing districts, framed by the discourse on air quality, stormwater management and flood hazard mitigation.

# Draft Recommendations

OIUS recommends a four part proposal that addresses the City's goal of improving the quality and safety of New York City's manufacturing districts.

- ✓ Applies to all uses
- ✓ Applies retroactivity where appropriate
- ✓ Emphasizes stormwater management, while addressing other concerns



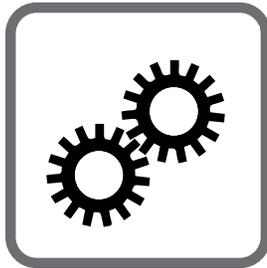
# Zoning Text Amendments applicable to all Open Industrial Sites



Applies to new and existing unenclosed uses. (Except for existing construction and demolition facilities) The six defined open industrial uses would no longer be subject to the performance standards.



Concrete  
& Asphalt  
Manufacturing



Scrap Metal  
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Wrecking



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Debris Transfer



Waste  
Recycling



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Storage of  
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# Zoning Text Amendments applicable to Open Industrial Sites



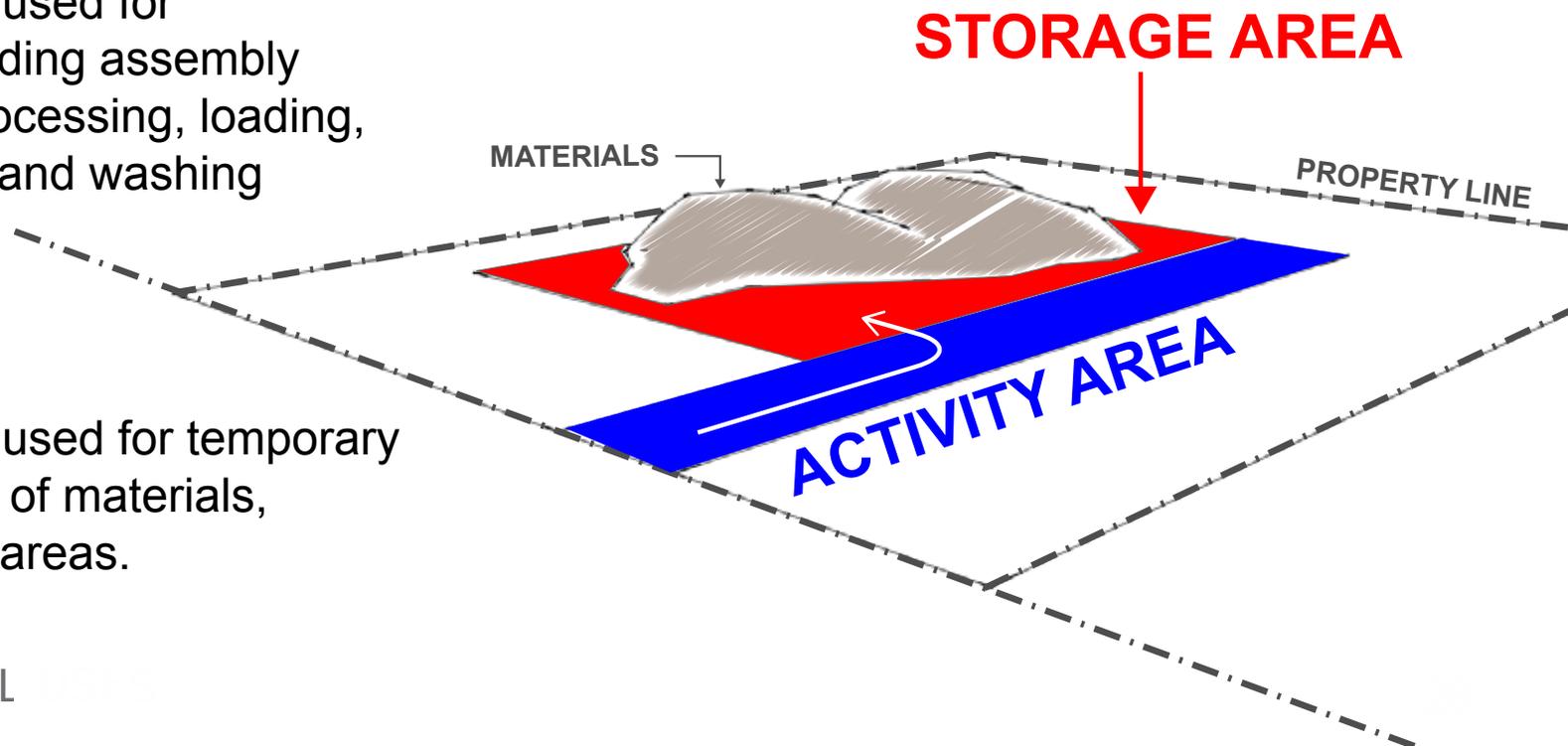
Applies to open, unenclosed, unsecure, and outdoor activities, uses and storage types, as described below.

## ACTIVITY AREA

Any portion of a site used for manufacturing (including assembly and dismantling), processing, loading, unloading, queuing, and washing

## STORAGE AREA

Any portion of a site used for temporary or long-term storage of materials, exclusive of parking areas.

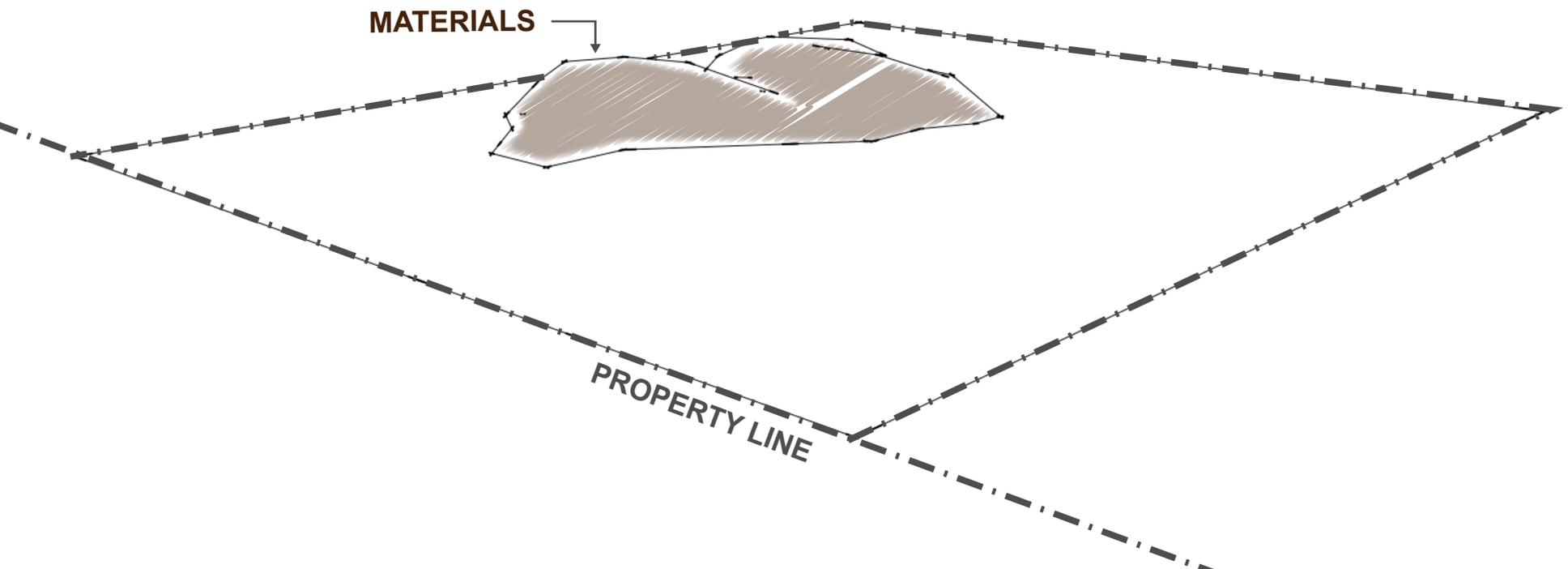


# Zoning Text Amendments

Regulatory Amendments applicable to all open industrial sites



Zoning would require that the five applicable categories of open industrial uses meet new pollution prevention standards within five years of [date of adoption].

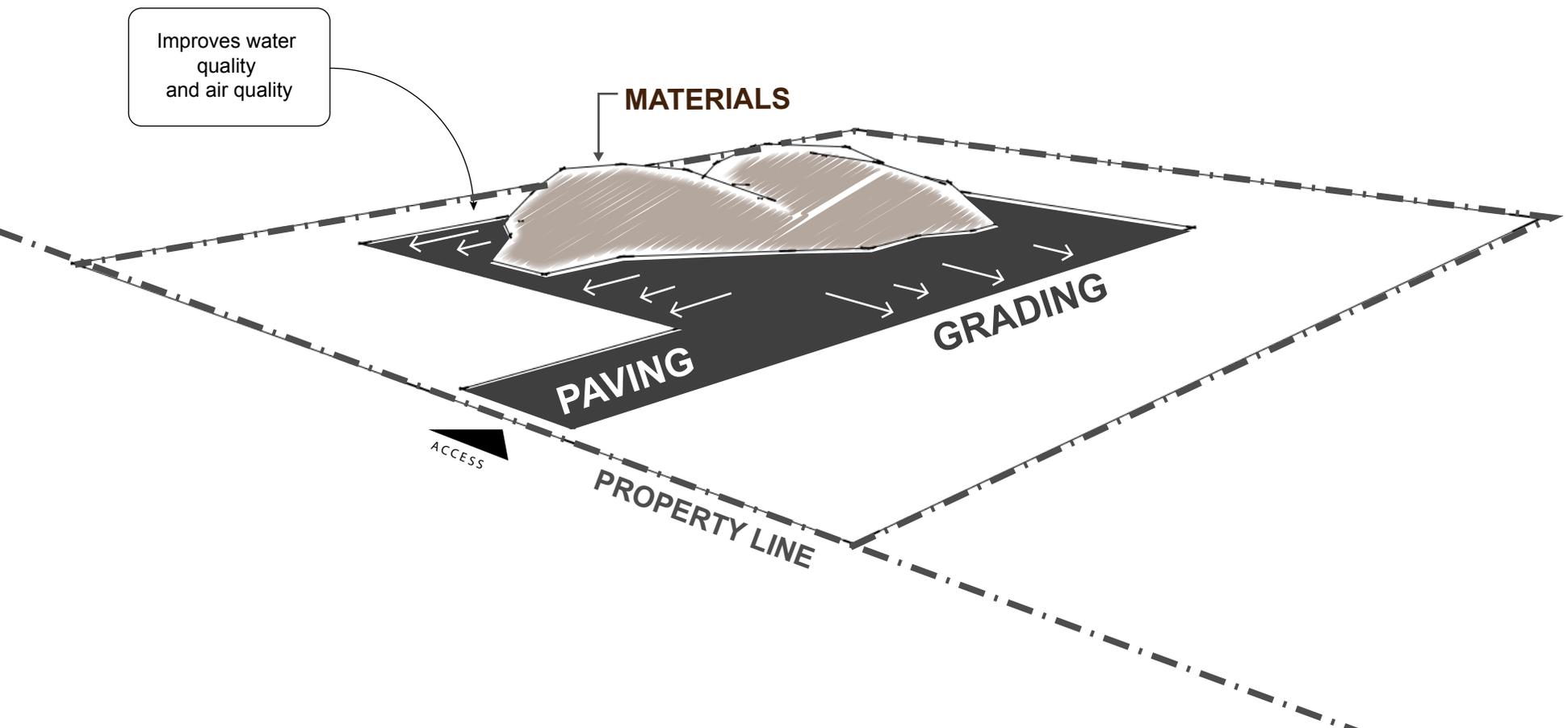


# Zoning Text Amendments - OIU sites

Part I: Regulatory Amendments applicable to all open industrial sites



## 1. Pave and grade the activity and storage areas.

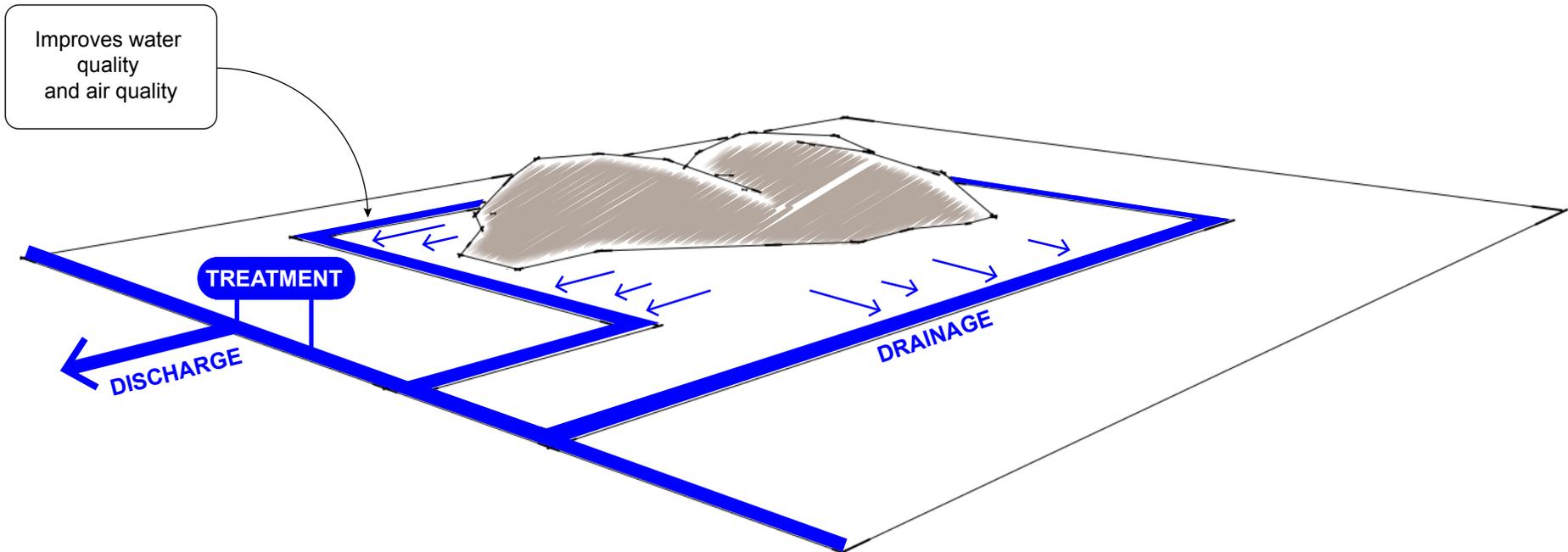


# Zoning Text Amendments - OIU sites

Part I: Regulatory Amendments applicable to all open industrial sites



2. Install drainage system for paved area, including treatment and filtration (grit or oil) depending on use.

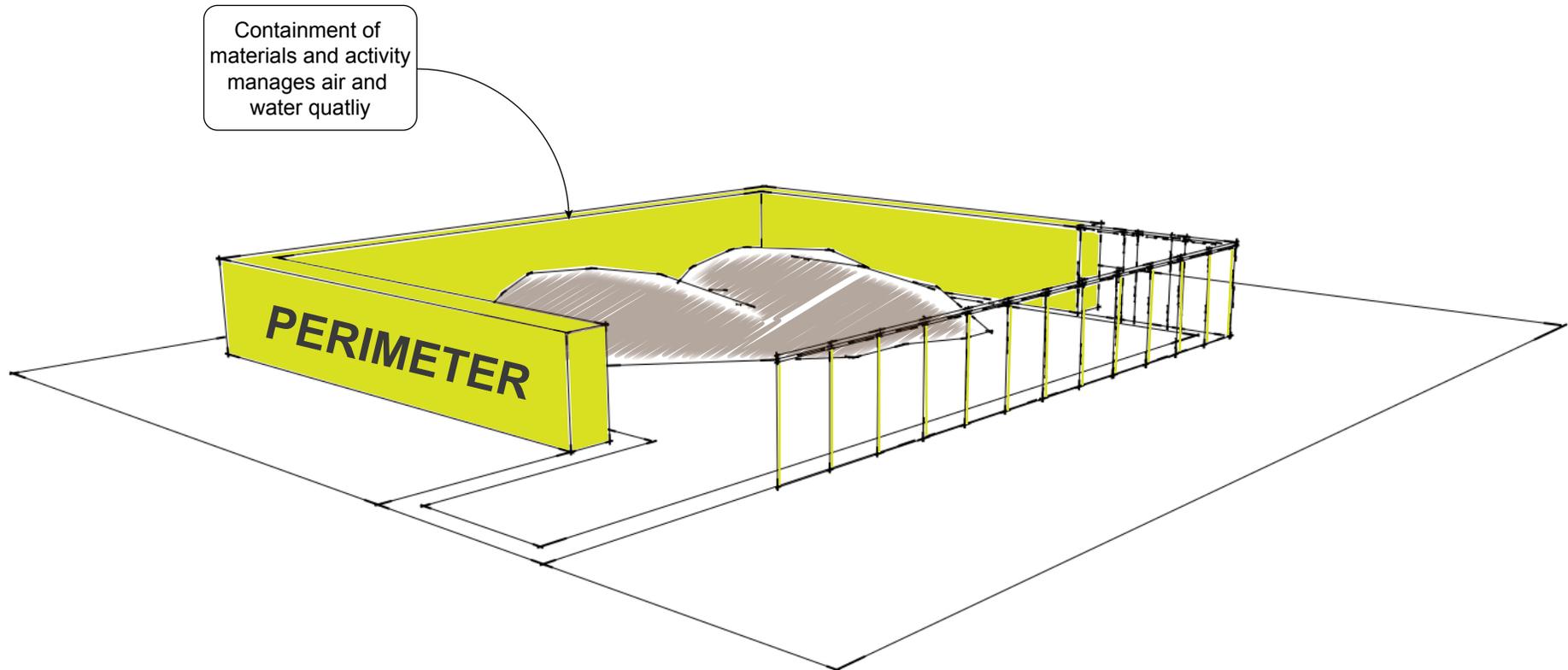


# Zoning Text Amendments - OIU sites

Part I: Regulatory Amendments applicable to all open industrial sites



## 3. Install containment or perimeter treatment around storage and activity areas.



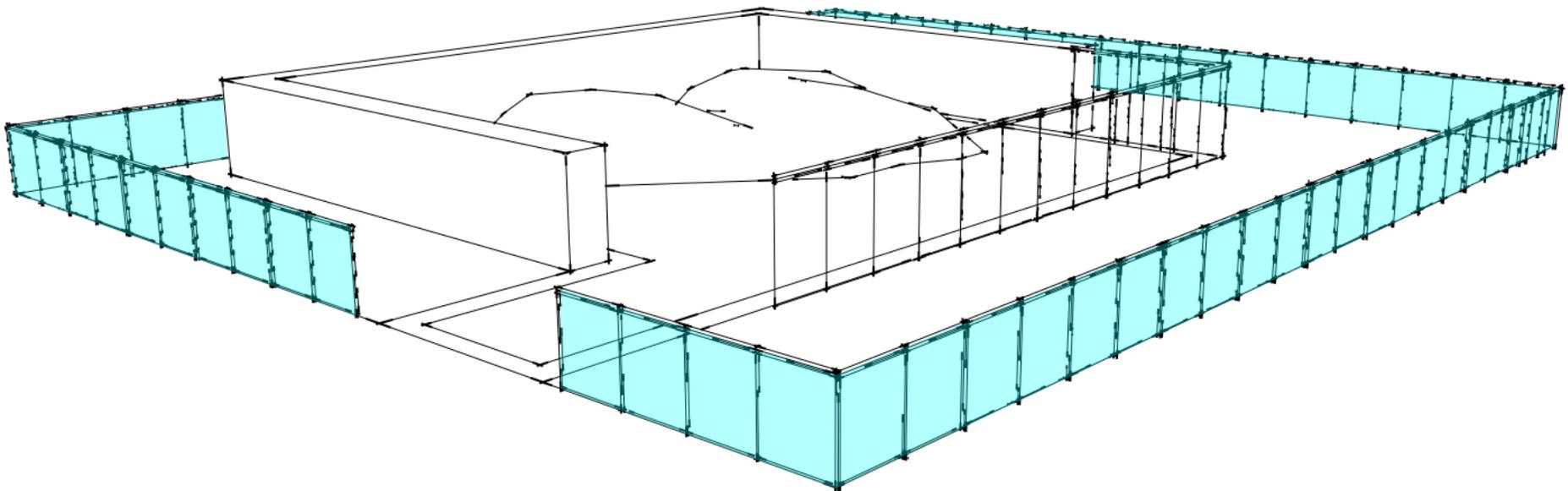
# Zoning Text Amendments

Regulatory Amendments applicable to all open industrial sites



## Evaluate property line fencing standards for new facilities.

8' fencing requirement does not provide pollution prevention and impairs visibility to natural resources. Fencing requirements are under review with DCP Urban Design Division.



# Zoning Text Amendments

Regulatory Amendments applicable to all open industrial sites



## Other site design standards under consideration

### Quality of Life Standards

[ONLY APPLICABLE TO NEW FACILITIES,  
EXPANSIONS, OR CHANGE OF USE]

Minimum truck parking and queuing requirement.

Landscaping and buffering adjacent to residential districts

Fencing standards for height, materials, transparency

### Signage

[REQUIRED FOR ALL FACILITIES:  
NEW AND EXISTING]

A sign shall be posted at all entrances to the facility and shall indicate the business name, hours of operation, the types of materials it accepts and does not accept, the types of permits to operate pursuant to City and State regulations and expiration dates, and the telephone number of the business.

*(check if reference should be in Building Code)*

# Coordination with other Codes

Regulatory Amendments applicable to all open industrial sites

- Coordinate amendments to other City codes to address inconsistencies, gaps and specify applicability of standards to open industrial uses.

**Building Code (DOB)**



**Air Code (DEP)**



**Noise Code (DEP)**

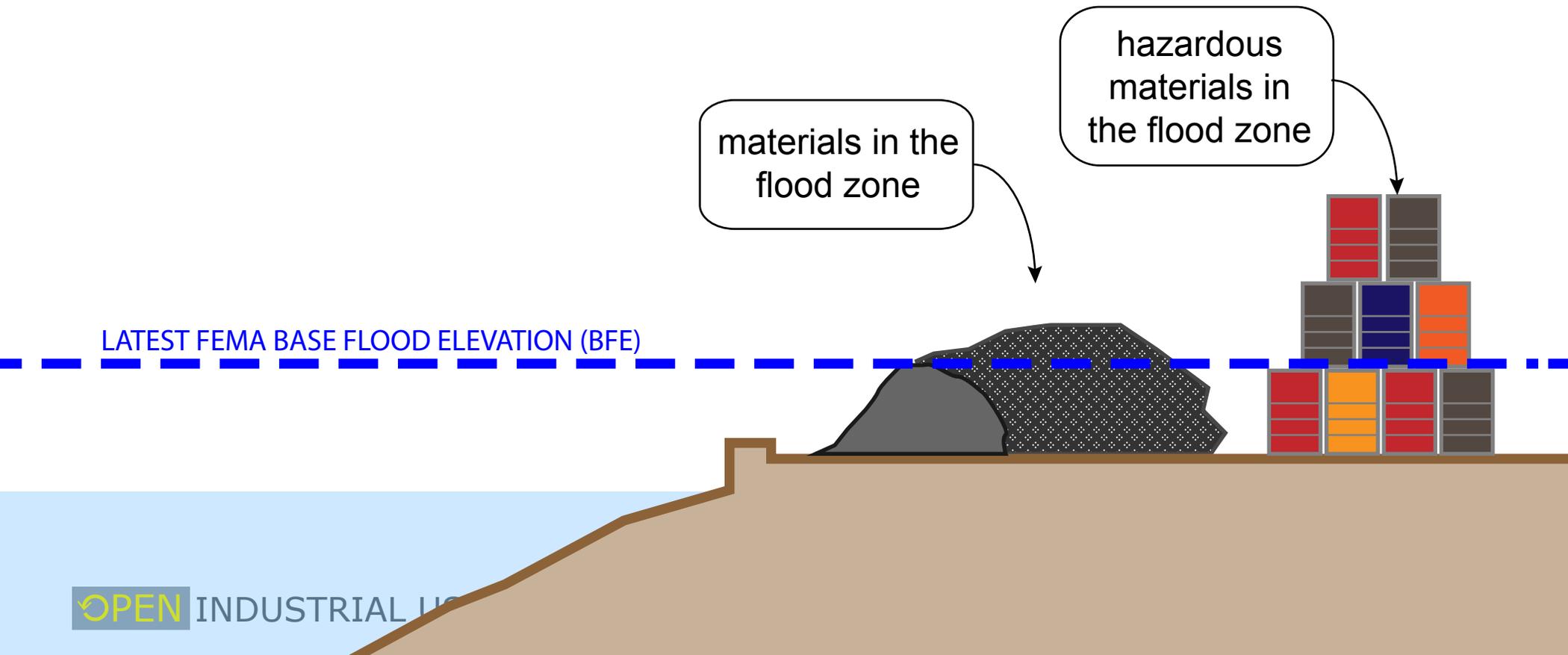
**Sanitation Rules (DSNY)**



# Regulatory Amendments applicable to open activity and storage in flood zones



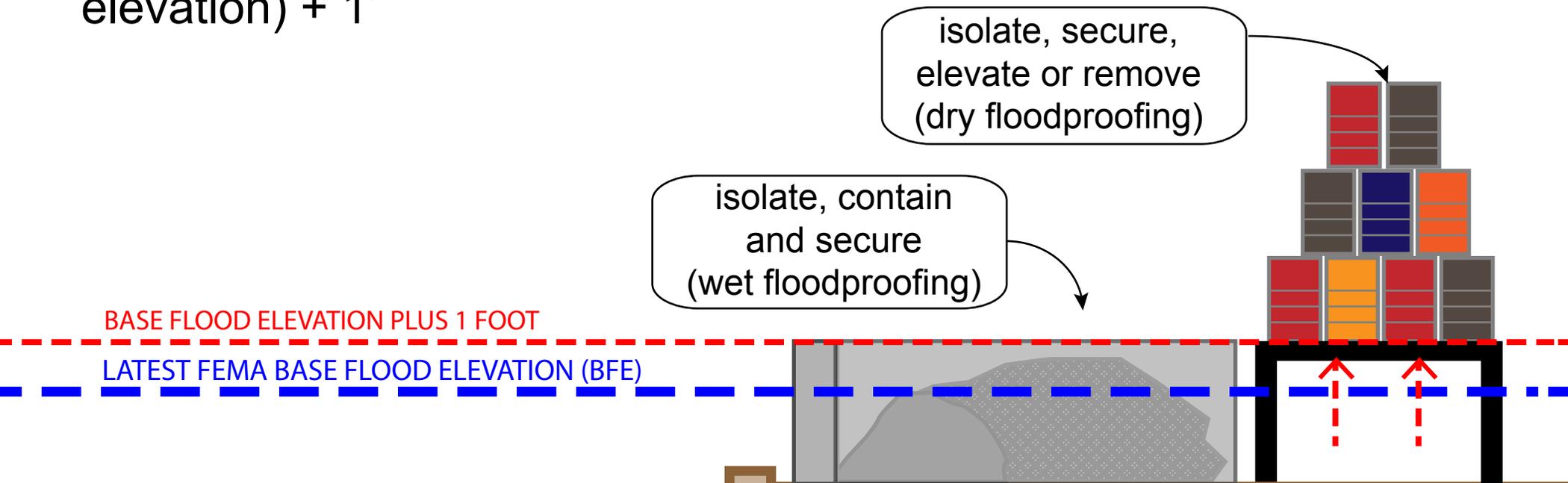
Appendix G of the NYC Building Code regulates the storage of materials and activities in the flood zone.



# Regulatory Amendments applicable to open activity and storage in flood zones



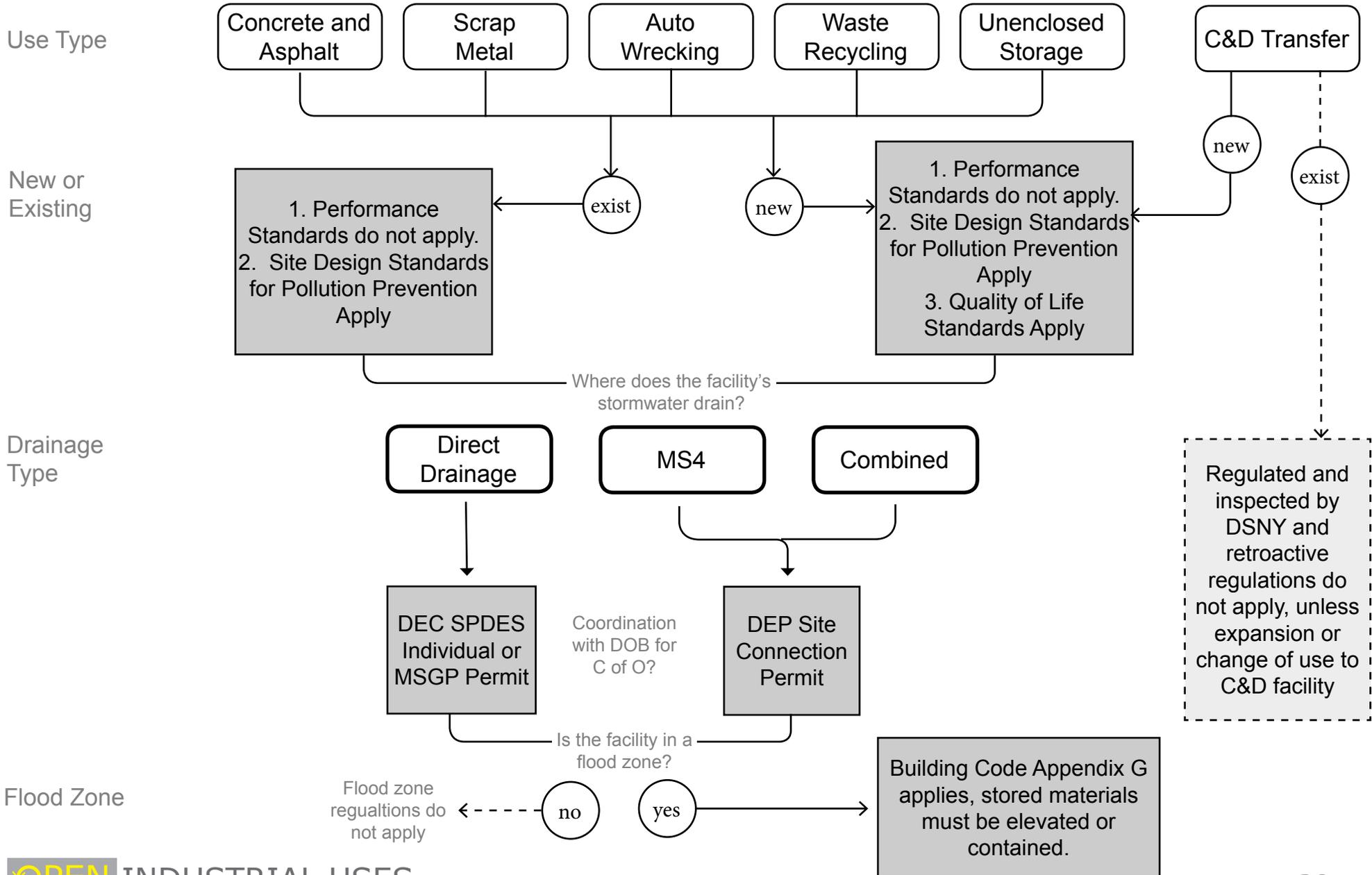
Appendix G requires that facilities flood proof open stored and hazardous material in the flood zone, or design to BFE (base flood elevation) + 1'



- Revise Appendix G: Flood-resistant construction standards would apply to new and existing open industrial uses and all other open storage, whether or not the primary use on site.

# Compliance Framework

Part III: Improve coordination with other agencies



# Incentives and Outreach

Identify and create program to provide financial assistance for upgrades required by new zoning provisions. Such as:

- Study potential incentives for small industrial improvements with EDC/IDA.
- Education, support and outreach on existing financial incentives such as ICAP and Brownfields Programs.
- Develop program that provides businesses with technical permit assistance, education and outreach on the proposed changes.





## Next Steps...

- Initiate Draft Zoning Text Amendment
- Outline Environmental Review
- Begin Public Review in Fall of 2013
- Continue Public Outreach