

OPTIONAL FORM 99 (7-90)

<b>FAX TRANSMITTAL</b>		# of pages - <b>14</b>
To <b>Jeff Hollman</b>	From <b>Steve Gault</b>	
Dept./Agency	Phone #	
Fax #	Fax #	

## MEMORANDUM OF UNDERSTANDING

BETWEEN

THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
REGION II, NEW YORK, NEW YORK

AND

THE ENVIRONMENTAL PROTECTION AGENCY  
REGION II, NEW YORK, NEW YORK

PURPOSE and GOAL

This Memorandum of Understanding (MOU) is established to assist the Environmental Protection Agency (EPA), Region II, and the Department of Housing and Urban Development (HUD), Region II, in meeting the Sole Source Aquifer (SSA) project review requirements of Section 1424(e) of the 1974 Safe Drinking Water Act (SDWA) PL 93-523.

The MOU establishes a formal agreement of each agency's responsibilities and the procedures to be followed in evaluating the potential groundwater impact of projects/activities submitted for HUD Federal financial assistance which are located within the project review area of a designated SSA in Region II.

Under Section 1424(e), an aquifer may be designated by EPA as a SSA if it is determined that the aquifer is the sole or principal source of drinking water for an area and, if contaminated, would create a significant hazard to public health. Following designation, no commitment of Federal financial assistance may be entered into for any project/activity within the SSA project review area which the EPA Administrator determines may contaminate the aquifer so as to create a significant hazard to public health.

The overall goal is to ensure that each project/activity receiving Federal financial assistance in a SSA project review area is designed and constructed in a manner that will prevent the introduction of contaminants into the SSA in quantities that may create a significant hazard to public health.

GEOGRAPHIC AREAS AFFECTED

This MOU applies to HUD Federal financially assisted projects/activities in the project review area of all current and future designated SSAs in Region II.

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Attachment 1, Designated SSAs in Region II, lists the designated SSA areas within the states of New York and New Jersey in EPA, Region II; the date of designation; and the Federal Register Notice citation. Attachment 1 also provides a map of the SSA project review area boundary for each of the designated aquifers. When any other SSAs are designated in Region II, EPA will notify HUD in writing.

#### DEFINITIONS

##### Significant Hazard to Public Health:

A level of contaminant which causes or may cause the aquifer to:

- (a) Exceed any (1) maximum contaminant level set forth in any promulgated National Primary Drinking Water Standard; (2) state standard where more stringent than the Federal standard; (3) public health advisory level for currently unregulated contaminants; at any point where the water may be used for drinking purposes, or
- (b) May otherwise adversely affect the health of persons, or
- (c) May require a public water system to install additional treatment to prevent such adverse effect.

##### Federal Financial Assistance:

Financial benefits provided directly as aid to a project by a department, agency, or instrumentality of the federal government in any form including contracts, grants and loan guarantees. Actions or projects carried out by the federal government itself do not involve federal financial assistance.

Actions performed for the federal government by contractors should be distinguished from contracts entered into specifically for the purpose of providing financial assistance, and will not be considered programs or actions receiving Federal financial assistance.

Federal financial assistance is limited to benefits earmarked for a specific project or action and directly awarded to the project or action. Indirect assistance, e.g., in the form of a loan to a developer by a lending institution which in turn receives federal assistance not specifically related to the project in question is not federal financial assistance under Section 1424(e).

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SSA Project Review Area:

The area within which federal financially assisted projects/activities will be reviewed, which includes the designated area and may include all or a portion of the streamflow source area(s). The designated area can include the area above the aquifer, the area which recharges the aquifer (possibly including all or a portion of the streamflow source area) and the area where the population served by the aquifer resides. Streamflow source zone is defined as the upstream headwaters area of losing streams (streams contributing to recharge to Ground Water) that drain into the recharge area. The extent of the SSA project review area is outlined in the Federal Register designation notice for that SSA. Attachment 1 lists the Federal Register Notice citation and provides a map of the SSA project review area.

MOU ATTACHMENTS

- Attachment 1: Designated SSAs in Region II
- Attachment 2: A. Non-Housing Initial Screen Criteria  
B. Housing Initial Screen Criteria
- Attachment 3: SSA Preliminary Review Information Requirements
- Attachment 4: Hazardous Constituents

ENVIRONMENTAL REVIEW RESPONSIBILITY

Pursuant to Section 1424(e) of the SDWA, EPA is responsible for designating SSAs and reviewing federal financially assisted projects/activities within SSA project review areas.

Pursuant to the National Environmental Policy Act (NEPA) and other provisions of law, HUD is responsible for environmental review and decision making except in those cases delegated by law such as with Community Development Block Grant Program (CPD). Environmental responsibility includes compliance with Section 1424(e) of the SDWA.

EIS EARLY NOTIFICATION/SCOPING

If an Environmental Impact Statement (EIS) is prepared for a project/activity in a SSA project review area, HUD or its grant recipients that assume by law environmental responsibilities and EPA shall coordinate at the earliest possible time so that the draft EIS contains EPA's SSA review determination. This is to ensure that any possible groundwater contamination has been considered.

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This early notification will serve to initiate consultations with the developer to determine the scope of study that may be necessary if any formal groundwater quality assessment is required.

REVIEW PROCESS:

COMMUNITY PLANNING AND DEVELOPMENT (CPD) and HOUSING PROGRAM

The general procedures to be followed by HUD, its delegated agencies and EPA in reviewing HUD federal financially assisted activities and determining their potential impact on the SSA are outlined below. The overall goal is to ensure that each project/activity receiving federal financial assistance is designed and constructed in a manner that will prevent the introduction of contaminants into the SSA in quantities that may create a significant hazard to public health. Two levels of potential review are: (1) Initial Screen/Preliminary Review, and (2) Formal Section 1424(e) Review.

I. Excluded Projects/Activities

EPA and HUD mutually agree that the following list of project/activity categories would not create a significant hazard to public health:

- Construction of individual new residential structures containing from one to four units
- Funding of planning grants
- Rehabilitation of residential units
- Funding of all other grants for non-construction projects/activities
- Projects identified as exempt in 24 CFR 58.34

These categories of projects/activities are therefore excluded from the Initial Screen/Preliminary Review requirements as outlined in Sections II and III below. Potential CPD recipients; states; other delegated agencies and HUD are responsible for making this determination for their respective programs. EPA may request information on these projects/activities and conduct a review if EPA determines it to be necessary.

II. CPD Applications/Final Statements

A. Initial Screen/Preliminary Review

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HUD shall notify all potential CPD recipients, including states that are administering HUD programs (Non-Entitlement Small Cities Program, etc.) and other delegated agencies with jurisdiction in SSA project review areas of the SSA review requirements under Section 1424(e) and of their responsibility as outlined in this MOU.

Potential CPD recipients shall conduct an initial screen of CPD projects/activities proposed for HUD federal financial assistance prior to submission of an application or final statement to HUD. Attachment 2.A, Non-Housing Initial Screen Criteria, shall be used for CPD projects/activities that do not involve housing; and Attachment 2.B, Housing Initial Screen Criteria, for CPD projects/activities involving housing only.

EPA shall be notified of any projects/activities which result in a positive response to one of the criteria questions in Attachment 2. Where a project/activity meets one of the criteria in Attachment 2, the information in Attachment 3, SSA Preliminary Review Information Requirements, shall also be completed and forwarded to EPA along with applicable project/final statement information.

Upon receipt of the above, EPA will conduct its Preliminary Review. If additional information is required, EPA will inform the potential CPD recipient and HUD. The potential CPD recipient shall be responsible for submitting to EPA any additional information requested in a timely manner.

Based on the information provided, EPA will make its determination on whether to complete its review at this stage and provide SSA review clearance, or proceed to a Formal Section 1424(e) Review. The project/activity may be cleared as is, or with modifications.

#### B. Timeframe for Preliminary Review and Notification

Within fifteen calendar days of EPA's receipt of the project's final statement, Attachment 2 and Attachment 3, EPA will notify the potential CPD recipient and HUD of one or more of the following:

- the project/activity has received SSA review clearance
- the project/activity requires modifications to receive SSA review clearance
- additional environmental information is required
- additional time to review the project, is required
- the project/activity raises major environmental concerns requiring interagency consultation
- a Formal Section 1424(e) Review is required

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If EPA does not notify HUD within 15 days of receipt of the project, HUD should proceed with its project review.

HUD shall not authorize a release of funds until all outstanding issues with regard to the subject project/activity have been resolved.

#### C. Formal Section 1424(e) Review

Should a Formal Section 1424(e) Review be required, EPA shall formally notify the potential CPD recipient and HUD of this decision. If additional information is required, the potential CPD recipient shall be responsible for submitting the requested information to EPA in a timely manner. EPA may also schedule a public hearing to gather additional information.

Based on the information provided, EPA shall make a determination to either approve the project/activity, request more information, suggest modifications or disapprove the project/activity.

### III. Housing Program Applications

#### A. Initial Screen/Preliminary Review

HUD shall notify all of its field offices of the SSA review requirements under Section 1424(e) and of their responsibilities as outlined in this MOU.

HUD shall conduct an initial screen of housing projects proposed for HUD Federal financial assistance. Attachment 2.B, Housing Initial Screen Criteria, shall be used for this review. EPA shall be notified of any projects which result in a positive response to one of the criteria questions in Attachment 2.B. Where a project meets one of the criteria in Attachment 2.B, the information in Attachment 3, SSA Preliminary Review Information Requirements, shall also be completed and forwarded to EPA along with the applicable project information.

Upon receipt of the above, EPA will conduct its Preliminary Review. If additional information is required, EPA will inform the HUD field office who shall then be responsible for submitting to EPA the requested information in a timely manner.

Based on the information provided, EPA will make its determination on whether to complete its review at this stage and provide SSA review clearance or proceed to a Formal Section 1424(e) Review. The project may be cleared in its existing form, or with modifications.

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#### B. Timeframe for Preliminary Review and Notification

Within fifteen calendar days of EPA's receipt of the pertinent environmental information from the housing application, Attachment 2 and Attachment 3, EPA will notify HUD of one or more of the following:

- the project has received SSA review clearance
- the project requires modifications to receive SSA review clearance
- additional environmental information is required
- additional time to review the project is required
- the project raises major environmental concerns requiring interagency consultation
- a Formal Section 1424(e) Detailed Review is required

The project environmental clearance needed for project approval shall not be considered complete (appropriate sign-offs) until outstanding SSA issues with regard to the subject project have been satisfactorily resolved.

If EPA does not notify HUD within 15 days of receipt of the project, HUD should proceed with its project review.

#### C. Formal Section 1424(e) Review

Should a Formal Section 1424(e) Review be required, EPA shall formally notify HUD of this decision. If additional information is required, HUD shall be responsible for submitting the requested information to EPA in a timely manner. A public hearing may be held to gather additional information.

Based on the information provided, EPA shall make a determination to either approve the project, request more information, suggest modifications or disapprove the project.

#### D. Local Area Certification For Housing Environmental Review

If the community is wholly or partially within a SSA project review area boundary, the local certified agency shall have the same responsibility as HUD in meeting the SSA review requirements as outlined in Section 1424(e) and this MOU.

GENERAL PROCEDURAL MATTERS

Materials submitted to IPA by HUD or the applicant will be addressed to the attention of:

Chief, Environmental Impacts Branch  
U.S. EPA Region II  
26 Federal Plaza, Room 500  
New York, New York 10278

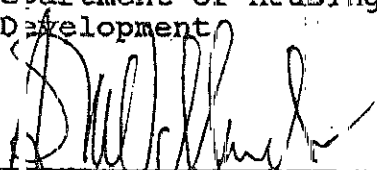
The following representatives will serve as liaisons for HUD and EPA respectively. The liaisons will maintain communication as needed regarding projects/activities affecting the SSAs and this MOU.

HUD: Regional Office Environmental Officer  
(212) 264-0793

EPA: Chief, Environmental Impacts Branch  
(212) 264-1840

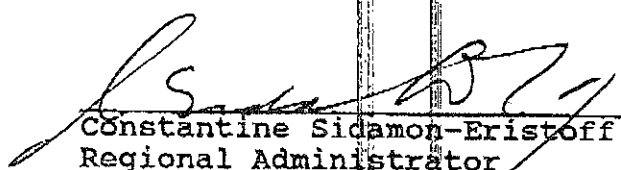
This MOU is subject to revision upon agreement by both parties.

U.S. Department of Housing and  
Urban Development



A. M. Villane, Jr., DDS  
Regional Administrator/  
Regional Housing Commissioner

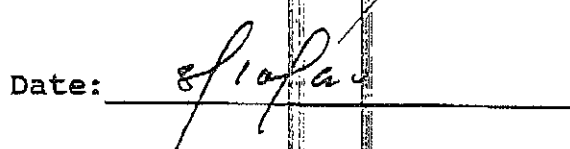
U.S. Environmental Protection  
Agency



Constantine Sidamon-Eristoff  
Regional Administrator

AUG 24 1990

Date: \_\_\_\_\_



Date: \_\_\_\_\_



ATTACHMENT 2.A

NON-HOUSING PROJECT/ACTIVITY INITIAL SCREEN CRITERIA  
(For projects in a designated Sole Source Aquifer area)

The following list of criteria questions are to be used as an initial screen to determine which non-housing projects/activities should be forwarded to the Environmental Protection Agency (EPA) for Preliminary Sole Source Aquifer (SSA) Review. (For housing projects/activities see Attachment 2.B) If any of the questions are answered affirmatively, Attachment 3, SSA Preliminary Review Requirements, should also be completed. The application/final statement, this Attachment, Attachment 3, and any other pertinent information should then be forwarded to EPA at the address below.

Any project/activity not meeting the criteria in this Attachment, but suspected of having a potential adverse effect on the Sole Source Aquifer should also be forwarded. Contact EPA if you have any questions.

Chief, Environmental Impacts Branch  
USEPA Region II  
26 Federal Plaza, Room 500  
New York, New York 10278  
(212) 260-1840

CRITERIA QUESTIONS

- 1. Is the project/activity located within a currently designated or proposed groundwater sensitive area such as a special Ground Water Protection Area, Critical Supply Area, Wellhead Protection Area etc.? [This information can be obtained from the County or Regional planning board, the local health department, the State health department or the State environmental agency.]
  
- 2. Is the project/activity located within a one half mile radius (2640 feet) of a current or proposed public water supply well or wellfield? [This information can be obtained from the local health department, the State health department or the State environmental agency.]

YES NO N/A

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\_\_\_\_\_

3. Will the project/activity include or directly cause: (check appropriate items)

- construction or expansion of solid waste disposal, recycling or conversion facilities
- construction or expansion or closure of landfills
- construction or expansion of water supply facilities (i.e., treatment plant, pump house, etc.)
- construction or expansion of on-site wastewater treatment plants or sewage trunk lines, greater than 1/4 mile
- construction or expansion of gas or petroleum trunk lines, greater than 1200 feet
- construction or expansion of railroad spurs or similar extensions
- construction or expansion of municipal sewage treatment plants

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

4. Will the project/activity include storage or handling of any hazardous constituents as listed in Attachment 4, Hazardous Constituents?

If these constituents are used during the construction phase of the project, than an assurance statement must be provided indicating that chemicals will be used in a safe and proper manner, and that they will be promptly removed after construction is completed.

_____	_____	_____
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5. Will the project/activity include bulk storage of petroleum in underground or above ground tanks in excess of 1100 gallons?

_____	_____	_____
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6. Will the project/activity require a federal or state discharge elimination permit or modification of an existing permit?

_____	_____	_____
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This attachment was completed by:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone number: \_\_\_\_\_

Date: \_\_\_\_\_

ATTACHMENT 2.B

HOUSING/PROJECT INITIAL SCREEN CRITERIA  
(For projects in a designated Sole Source Aquifer area.)

The following list of criteria questions are to be used as an initial screen to determine which housing projects/activities should be forwarded to the Environmental Protection Agency (EPA) for Preliminary Sole Source Aquifer (SSA) Review. (For non-housing projects see Attachment 2.A). If any of the questions are answered affirmatively, Attachment 3, SSA Preliminary Review Requirements, should also be completed. The application/final statement, this Attachment, Attachment 3, and applicable project information than be forwarded to EPA at the address below.

Any project not meeting the criteria in this Attachment, but suspected of having a potential adverse effect on the Sole Source Aquifer should also be forwarded. Contact EPA if you have any questions.

Chief, Environmental Impacts Branch  
USEPA Region II  
26 Federal Plaza, Room 500  
New York, New York 10278  
(212) 264-1840

CRITERIA QUESTIONS:

1. Is the project located within a currently designated or proposed ground water sensitive area such as a Special Ground Water Protection Area, Critical Supply Area, Wellhead Protection Area etc.? [This information can be obtained from the County or Regional planning board, the local health department, the State health department or the State environmental agency.]
2. Is the project located within a one half mile radius (2640 feet) of a current or proposed public water supply well or wellfield? [This information can be obtained from the local health department, the State health department or the State environmental agency.]
3. Will the total impervious surfaces be greater than 75 percent?
4. Is the proposed project site greater than 30 acres?
5. Will the proposed density of the project be greater than 150 units per acre ?

YES NO N/A

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

- 6. Will the project include or directly cause:  
(check appropriate items)
  - construction or expansion of water supply facilities (i.e., treatment plant, pumphouse, etc.)
  - construction or expansion of on-site wastewater treatment plants
  - construction or expansion of sewage trunk lines greater than 1320 feet in length
  - construction or expansion of gas or petroleum trunk lines greater than 1320 feet
  
- 7. Will the project include storage or handling of any hazardous constituents as listed in Attachment 4, Hazardous Constituents? If these constituents are used during the construction phase of the project, an assurance statement must be provided indicating that chemicals will be used in a safe and proper manner, and they will be promptly removed after construction is completed.
  
- 8. Will the project include bulk storage of petroleum in underground or above ground tanks in excess of 10,000 gallons or permit verification?
  
- 9. Will the project require a federal or state pollutant discharge elimination permit or modification of an existing permit?

_____	_____	_____
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_____	_____	_____

This attachment was completed by:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone number: \_\_\_\_\_

Date: \_\_\_\_\_

## ATTACHMENT 3

## SSA PRELIMINARY REVIEW INFORMATION REQUIREMENTS

Where currently available, the information in this Attachment should be provided to the Environmental Protection Agency (see address below) along with the application/final statement; Attachment 2.A, Non-Housing Initial Screen Criteria or Attachment 2.B, Housing Initial Screen Criteria; and any other information which may be pertinent to a Sole Source Aquifer review. Where applicable, indicate the source of your information.

Chief, Environmental Impacts Branch  
 USEPA Region II  
 26 Federal Plaza, Room 500  
 New York, New York 10278  
 (212) 264-1840

ENCLOSED  
 YES NO

## I. Project/Activity Location

1. Provide the geographic location and total acreage of the project/activity site. Include a site location map which identifies the site in relation to the surrounding area. [Examples of maps which can be used include: 1:24,000 or 1:25,000 U.S. Geological Survey quadrangle sheet, Hagstroms Street Map.]
2. If applicable, identify which groundwater sensitive areas (Special Ground Water Protection Area, Critical Supply Area, Wellhead Protection Area etc.) the project/activity is located within or adjacent to. [This information may be obtained from the County or Regional planning board, the local health department, the State health department or the State environmental agency.]

## II. Nature of Project/Activity

3. Provide a general narrative describing the project/activity including but not limited to: type of facility; type of activities to be conducted; number and type of units; number of residents etc. Provide the general layout of the project/activity site and a site-plan if available.

III. Public Water Supply

- 4. Provide a description of plans to provide water supply.
- 5. Provide the location of nearby existing or proposed public water supply wells or wellfields within a one half mile radius (2640 feet) of the project/activity. Provide the name of the supplier(s) of those wells or wellfields. This information should be available from the local health department, State health department or the State environmental agency. If private wells are to be used, then information necessary to obtain a well drilling permit should be provided.

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V. Wastewater and Sewage Disposal

- 6. Provide a description of plans to handle wastewater and sewage disposal. If the project/activity is to be served by existing public sanitary sewers provide the name of the sewer district.
- 7. Provide a description of plans to handle storm water runoff.
- 8. Identify the location, design, size of any on-site recharge basins, dry wells, leaching fields, retention ponds etc.

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VI. Use, Storage, Transport of Hazardous or Toxic Materials (Applies only to non-housing projects/activities)

- 9. Identify any products listed in Attachment 3, Hazardous Constituents, of the Housing and Urban Development-Environmental Protection Agency Memorandum of Understanding which may be used, stored, transported, or released as a result of the construction activity.
- 10. Identify the number and capacity of underground storage tanks at the project/activity site. Identify the products and volume to be stored, and the location on the site.
- 11. Identify the number and capacity of above ground storage tanks at the project/activity site. Identify the products and volume to be stored, and the location on the site.

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