

Albany-Schenectady-Troy 8-Hour Ozone Non-Attainment Area Transportation/Air Quality Conformity Determination

**Capital District Transportation Committee (CDTC)
2005-2010 TIP and 2025 *New Visions* Transportation Plan**

**Adirondack/Glens Falls Transportation Council (A/GFTC)
2005-2010 TIP and 2025 Long Range Plan**

**12 Year Capital Program of Transportation Projects
for Montgomery, Greene, and Schoharie Counties**

Prepared by:

NYS DOT Environmental Analysis Bureau, CDTC, and A/GFTC

in association with

NYS DOT Regions 1, 2, and 9

DRAFT FOR INTERAGENCY AND PUBLIC REVIEW

August 2, 2006

**Capital District
Air Quality Conformity Determination**

Table of Contents

<u>Report Section</u>	<u>Page</u>
Introduction	1
Attainment / Non-Attainment Status	2
Emissions Test for Transportation Conformity	2
Use of Latest Planning Assumptions	2
Consultation	5
Transportation Demand Modeling Requirements	5
Consistency of TIP and Plan	8
Regionally Significant Non-Federal Projects	7
Latest Emission Model	8
Regional Emissions Analysis	8
Public Involvement	9
Evidence of MPO Resolutions	10
Statement of Conformity with the SIP	10

APPENDICES

- Appendix A - Description of Project Scopes for Non-Exempt Projects in CDTC Model
- Appendix B - CDTC Off-Model Emissions Analyses
- Appendix C - CDTC STEP Model Results
- Appendix D - Emission Rates for Individual Links in CDTC STEP Model
- Appendix E - Montgomery County Emissions Analysis
- Appendix F - Relationship of State Route Traffic Growth to CDTC Forecasts
- Appendix G - Evidence of Public Notice
- Appendix H - Signed MPO Resolutions

TRANSPORTATION / AIR QUALITY CONFORMITY DETERMINATION FOR THE ALBANY-SCHENECTADY-TROY 8-HOUR OZONE NON-ATTAINMENT AREA

**For the Capital District Transportation Committee (CDTC) 2005-2010 TIP
and 2025 *New Visions* Transportation Plan, the Adirondack/Glens Falls
Transportation Council (A/GFTC) 2005-2010 TIP and 2025 Long Range Plan,
and the 2006-2018 Capital Program of Transportation Projects
in Montgomery, Greene, and Schoharie Counties**

Introduction

The Clean Air Act requires the United States Environmental Protection Agency to establish the national ambient air quality standards (NAAQS) for various criteria air pollutants. Areas where air quality monitoring shows a violation of the NAAQS are designated “non-attainment.” By law the NYSDEC is required to produce a plan, known as the *State Implementation Plan (SIP)* that details how sufficient emission reductions, including reductions in the mobile source sector, will be achieved to meet the NAAQS.

All non-attainment areas are subject to a provision in CAA §176(c) known as *transportation conformity*. The intent of the transportation conformity process is to fully coordinate transportation and air quality planning to ensure the implementation of Transportation Plans, Programs and Projects will not 1) cause or contribute to any new violation of the NAAQS, 2) increase the frequency or severity of any existing NAAQS violations, or 3) delay timely attainment of the NAAQS or any required interim emissions reductions or other milestones in any area.

To address transportation system needs associated with the proposed Luther Forest Technology Park in the Town of Malta, Saratoga County, CDTC and NYSDOT propose to add several non-exempt transportation projects to its 2005-2010 TIP and 2025 *New Visions* Plan and to the New York State Department of Transportation capital program. All of the non-exempt projects in the Luther Forest Technology Campus Plan have been included in this conformity analysis, and the impacts of a number exempt projects in the Campus Plan have also been modeled. Federally funded projects will be formally amended to the TIP, while State funded projects that are over \$500,000 will be shown for information only in the TIP. The Round Lake Bypass will be formally amended to the New Visions Regional Transportation Plan. As a result of this action, a new transportation conformity determination is required for the Albany-Schenectady-Troy non-attainment area. This report presents the results of the regional emissions analysis and describes the process and methods undertaken by A/GFTC, CDTC and the New York State Department of Transportation Regions 1, 2, and 9 to demonstrate air quality conformity for the entire seven county non-attainment area.

Attainment / Non-Attainment Status

The Albany-Schenectady-Troy metropolitan area consists of Saratoga, Schenectady, Albany, Rensselaer, Montgomery, Greene, and Schoharie Counties and is classified as a Clean Air Act Subpart 1 Basic non-attainment area for the 8-hour ozone standard. The 8-hour ozone “design value” for the area is 0.085 ppm, based on 2002-2004 monitoring data from the New York State Department of Environmental Conservation. The area is classified “attainment” for all other Clean Air Act criteria pollutants.

Emissions Test for Transportation Conformity

A motor vehicle emissions budget has not been established for the Albany-Schenectady-Troy non-attainment area as part of the State Implementation Plan (SIP) for the 8 hour ozone standard. Per the federal transportation conformity regulation, 40 CFR Part 93, Subpart 1 “Basic” non-attainment areas may choose between two interim emissions reductions tests to demonstrate conformity.

40 CFR Part 93.119(b)(2)(i) allows Basic Subpart 1 non-attainment areas to demonstrate conformity when emissions predicted in the “action” scenario are not greater than emissions predicted in the “baseline” scenario, and this can be reasonably expected to be true in the periods between analysis years. This test is also referred to as the “build-no-greater-than-no-build” test. 40 CFR Part 93.119(b)(2)(ii) allows 8-hour ozone non-attainment areas to demonstrate conformity when the “action” scenario emissions are less than or equal to 2002 emissions. This test is commonly referred to as the “no-greater-than-baseline year” emissions test.

For this conformity determination, the build-no-greater-than-no-build emissions test has been utilized to demonstrate conformity. To meet the requirements under 40 CFR Part 93.109(c)(4)(i), the ozone precursors volatile organic compounds (VOC) and oxides of nitrogen (NO_x) are examined in the regional emissions analysis.

Use of Latest Planning Assumptions

On July 17, 2006 CDTC began the regional emissions analysis for its amended 2005-2010 TIP and 2025 New Vision Plan and for the NYSDOT Capital Program. The currently proposed CDTC TIP and New Visions Plan and NYSDOT Capital Program amendments will add a number of projects associated with the Luther Forest Technology Park in the Town of Malta, Saratoga County. These projects are described in Appendix A. In addition, the regional emissions analysis reflects the CDTC TIP amendment to defer one non-exempt project, Grade Separation of Lincoln Avenue and Amtrak Tracks, to the post 2010 period.

CDTC’s Systematic Traffic Evaluation and Planning (STEP) travel demand model network includes the Town of Moreau, Saratoga County which is within the A/GFTC planning boundary. Therefore, CDTC’s analysis appropriately incorporates the 2005-2010 A/GFTC TIP and 2025 Long Range Plan into the regional emissions analysis for the Albany-Schenectady-Troy non-attainment area. The

A/GFTC TIP and Plan include no non-exempt transportation projects in the Town of Moreau and have not changed since the last conformity determination that was approved on June 14, 2006.

In addition, since there have been no significant changes to the NYSDOT Capital Program of Projects in Greene, Montgomery, and Schoharie Counties, the off-model emissions analysis for the Capital Program of Projects in Greene, Montgomery, and Schoharie Counties used in support of the June 14, 2006 conformity determination is still valid.

The regional emissions analysis is based upon the latest planning assumptions in place at the time the analysis began as described below.

1. Estimates of current and future population employment, travel and congestion

After the adoption of the New Visions 2021 plan in October 2000, CDTC received results from the 2000 Census. The basic 2000 Census population and household values have proved to be remarkably consistent with forecasts prepared by the Capital District Regional Planning Commission (CDRPC) and used by CDTC in the 2021 plan. CDTC commissioned CDRPC to produce new growth forecasts consistent with the 2000 Census. The new forecasts, going out to 2040, re-affirm previous forecasts with the continued forecast for a slow population growth and a slowing of the rate in outer years. The rate of population growth forecast to 2025 and beyond remains essentially the same as the rate used in the 2021 plan. Similarly, analysis of journey-to-work data from the 2000 Census is consistent with prior work.

Regarding travel growth, CDTC continues to use NYSDOT Region 1 annual estimates of average daily state-system vehicle miles of travel (VMT) to monitor the validity of *New Visions* traffic growth assumptions, and the plausibility of achieving the plan's objective of tempering the rate of growth in vehicular traffic. To date, the data support CDTC's New Visions long-range traffic forecasts. *Appendix F* includes a comparison of forecast and actual traffic growth in the region.

All traffic data used for the analysis one non-exempt project in Montgomery County was developed by NYSDOT Region 2 and Environmental Analysis Bureau staff. These estimates are consistent with data in the 2004 NYSDOT Traffic Volume Report.

2. Transit Operating Policies and Ridership Trends

Year 2000 Census results showed the transit share of regional journey to work trips is at 3.4%. This percentage is consistent with CDTC's regional travel demand model, the CDTC STEP Model. Although CDTC has used its Mode Choice Model to evaluate different transit investment scenarios, the STEP Model is based on vehicle trips and implicitly estimates transit ridership in its trip generation forecasts. For future forecasts, the STEP Model assumes that transit fares will stay at current values after adjusting for inflation. It is assumed that under the implementation of the New Visions Plan, transportation and land use actions called for in the Plan will result in stable transit ridership. Under trend conditions, without the New Visions Plan, it is assumed that ridership will decrease by roughly ten percent.

3. Transit service and fare changes, road and bridge tolls

The most current transit fares and network operating conditions were input to the modeling structure used in generating transit ridership (modal shares). The transit operator for the Capital District is the

Capital District Transportation Authority (CDTA). The current fare structure is summarized in the following table:

Fare Type	Current Fare
Base Fare	\$1 - U.S. coins and \$1-dollar bills are accepted
Zone Fares	None
Express Service	None
Suburban Shuttle System	\$1
Transfers	Not available
Senior/Disabled Half Fare	All the time
<i>Go-Card</i> , providing one day of unlimited use	\$3 In most cases replaces transfers
<i>Swiper</i>	\$36 (5-day) \$44 (7-day)
Half Fare <i>Swiper</i>	\$18 (5-day) \$22 (7-day)
STAR service	\$2

4. Status of TCM Implementation

The applicable SIP does not include any TCMs for the Albany-Schenectady-Troy non-attainment area. Therefore, this requirement does not apply to this conformity determination. In addition, nothing in the CDTC TIP and Plan, the A/GFTC TIP and Plan or the Capital Program of Transportation Projects in Greene, Montgomery, or Schoharie Counties will interfere with the timely implementation of TCMs in other areas.

5. Other key information

There are no non-exempt or regionally significant projects in the 12 Year Capital Program of Transportation Projects in Greene and Schoharie Counties. The Capital Program of Transportation Projects in Montgomery County has undergone no significant changes since the last conformity determination that was approved by FHWA/FTA on June 14, 2006. The currently conforming Montgomery County program includes one non-exempt project; PIN 2044.61 (Rt. 30 Amsterdam North City Line to Fulton County Line)

The preferred alternative for PIN 2044.61 consists of approximately 4.3 kilometers (2.7 miles) of Urban Principal Arterial Route 30 highway reconstruction, beginning at the north Amsterdam City line, Montgomery County and extending thru the Town of Amsterdam, Montgomery County to the intersection of Route 30 and Voorhees Road in the Town of Perth, Fulton County. The total distance in Montgomery County is approximately 2 miles and the total distance in Fulton County is approximately 0.7 miles.

This section of Rt. 30 currently varies between two and three thru lanes and includes numerous substandard right turn lane cuts and center left turn lanes and four signalized intersections. The draft preferred alternative consists of the installation of sidewalks and drainage from the Amsterdam North city line to Golf Course Road, and highway widening from Golf Course Road to Maple Ave Extension. The build condition will result in a five lanes including a shared center left turn lane and right turn lanes at all intersections. Log City Road will be realigned 78 meters to the South to align with Maple Ave Extension. Rt. 30 north of the Log City Road/Maple Ave Extension will taper back to 3 lanes, including a shared center left turn lane. At Voorhees Road, Town of Perth, the new 3 lane section will transition back to the existing 2 lane section. Several traffic signal replacements, over 30 ROW strip takings, new highway lighting, and new sidewalks on both sides of the corridor proposed in this project. PIN 2044.61 was analyzed as described in Section 6.4 and in *Appendix E*.

Consultation

The Interagency Consultation Group (ICG) is currently reviewing the proposed classifications of all projects in the CDTC and A/GFTC TIPs and Plans and the Capital Program of Transportation Projects in Greene, Montgomery, and Schoharie Counties. The draft regional emissions analysis and conformity narrative is also currently undergoing interagency review. All issues identified in the interagency consultation process will be satisfactorily addressed prior to submittal of the final conformity determination to USDOT.

Transportation Demand Modeling Requirements

The CDTC STEP Model was used to evaluate the benefits of the subject projects, including emissions benefits. CDTC's Systematic Traffic Evaluation and Planning (STEP) model is used to estimate travel volumes and resulting congestion (VMT and speed). Using TMODEL2 software, the regional STEP model directly generates PM peak hour VMT and speed data attendant to existing and future land use, traffic, and highway network conditions for Albany, Rensselaer, Saratoga, and Schenectady Counties. Twenty four-hour VMT estimates were generated by factoring the PM peak hour trip set in accordance with NYSDOT's guidelines. For this exercise, the factor used to adjust the trip set was derived from hourly traffic distributions at more than 100 locations in the Capital District.

1. Classification of Projects per 40 CFR Part 93.126 and 93.127

The exempt, non-exempt, or regionally significant classifications of all transportation projects in the non-attainment area project are based on the specific highway and transit project types defined by the exemption criteria in the federal transportation conformity rules and guidance. As part of the interagency review process, the Interagency Consultation Group (ICG) concurred that the classification of projects into exempt and non-exempt categories was completed in accordance with appropriate federal regulations.

2. The horizon years must be defined

Analysis years were defined per 40 CFR Part 93.119(g)(1) as follows:

- 2002 – 8-hour ozone area base year (for informational purposes only)

- 2010 – First analysis year may be no more than five years from date of the conformity determination
- 2015 – Intermediate analysis years may be no more than ten years apart
- 2025 – New Visions Plan horizon year per 40 CFR Part 93.119(g)(1)

3. “No-build” scenario

In order to evaluate the impact of the TIP on emissions, the impacts of a “no-build” scenario were evaluated. The no-build scenario is a hypothetical scenario that would result if the TIP and the 2025 New Visions Plan and all non-exempt projects were not implemented. The networks used for the 2010, 2015 and 2025 “no-build” scenarios assume projects in the TIP and the Plan as well as all non-exempt projects would not be implemented. Travel demand for the year 2010, 2015 and 2025 "no-build" scenarios was simulated using Capital District Regional Planning Commission (CDRPC) official forecasts of households and employment, and CDTC forecasts of vehicle ownership.

4. “Action” or “build” scenario

All projects in the 2005-2010 CDTC TIP and 2025 New Visions Plan, the 2005-2010 A/GFTC TIP and 2025 Long Range Plan, and applicable Capital Programs that could be accommodated in the modeling process were included in the conformity analysis “build” scenario networks. Therefore, this analysis includes not only the effect of the non-exempt and regionally significant projects but also a number of exempt projects that produce system performance benefits and can be modeled. For a detailed description of the coding of non-exempt and other projects in CDTC’s travel demand modeling process, please refer to Appendix A.

The year 2010 TIP/Financially Constrained Plan network includes projects from the 2005-2010 TIP; the 2015 and 2025 TIP/Financially Constrained Plan networks include all TIP projects, including those scheduled in the post 5 year period of the TIP. For build conditions for 2010, 2015 and 2025, travel demand forecasts were prepared that were consistent with achievements expected from implementation of the *New Visions* plan. With full implementation of the *New Visions* plan, increases in daily vehicle travel will be dampened from the trend forecast of 30% (1996-2015) to approximately one-third to one-half that level. This will occur through a combination of substitution of communication for travel, increased carpooling, increased bus, bike, and/or walk travel, and shorter trip lengths (due to proximity of activities). This dampening of daily vehicle travel was represented in the CDTC STEP model as a 10% reduction in vehicle trips in 2010 with respect to trend growth forecasts, and as a 15% reduction in vehicle trips in 2015 and 2025. The full *New Visions* Plan network for 2015 and 2025 includes TIP projects plus additional economic development and congestion management projects; hypothetical, representative projects were selected which do not have status in the New Visions Plan. The New Visions Plan intentionally does not designate the additional \$60 million for Congestion Management projects and the additional \$60 million economic development projects to any specific projects at this time.

The financially constrained plan is based on "steady-state funding". Steady state funding is the currently expected state, federal and local funds would continue at current levels (adjusted for inflation) through the 21-year period, and all federal demo project funds would be received. This scenario makes comparable progress across all plan improvement initiatives. The financially

constrained plan is assumed to achieve comparable progress -- 71 percent -- in the reduction in travel that would be achieved by full plan implementation.

The TIP network used in the analysis assumes that all TIP projects are implemented. All non-exempt projects were modeled, as well as a number of exempt projects that will affect intersection capacities. Projects programmed in the post five year network were not included in the year 2010 TIP network, but were included in the 2015 and 2025 build networks. The year 2010 TIP/Financially Constrained Plan network includes projects from the 2005-2010 TIP; the year 2015 and 2025 TIP/Financially Constrained Plan network includes all TIP projects, including those scheduled in the post 5 year period of the TIP. For build conditions for years 2010, 2015 and 2025, travel demand forecasts were prepared that were consistent with achievements expected from implementation of the *New Visions* plan. CDTC's model network includes projects in the Town of Moreau within the A/GFTC planning boundary. There are no non-exempt projects scheduled for construction in Moreau during the time period of the *New Visions* Plan. For additional detail regarding the coding of non-exempt and other projects in the CDTC STEP model, refer to *Appendix A*.

In order to evaluate the impact of the CDTC TIP on emissions, the impacts of a "no-build" scenario were evaluated. The no-build scenario is a hypothetical scenario that would result if the TIP were not implemented. The networks used for the 2010, 2015 and 2025 "no-build" scenarios assume projects in the TIP would not be implemented. Travel demand for the year 2010, 2015 and 2025 "no-build" scenarios was simulated using Capital District Regional Planning Commission (CDRPC) official forecasts of households and employment, and CDTC forecasts of vehicle ownership.

Similarly, in order to evaluate the impact of the non-exempt project in the Montgomery County, the impacts of a "no-build" scenario and "build" scenario were evaluated. The traffic data used for the 2010, 2015 and 2025 "build" scenarios assumes the Rt. 30 capacity and signal improvements will be implemented while the no-build scenario assumes the same daily traffic volumes with improved level of service conditions during congested periods. Travel demand for the year 2010, 2015 and 2025 scenarios was based on traffic growth projections established by NYSDOT Region 2. There are no non-exempt or regionally significant projects scheduled for future construction in Greene or Schoharie Counties. Therefore, projects in these two counties have no effect on the future year "action" scenarios in the regional emissions analysis.

5. Identification of projects analyzed with an "off-model" process

As stated through this determination, there is one non-exempt project, PIN 2044.61 (Rt. 30: Amsterdam City Line to Fulton County Line) programmed for future construction in Montgomery County. This project was analyzed using updated build and no-build scenario traffic volumes, growth factors provided by NYSDOT Region 2 and speed values generated by the urban traffic micro simulation model, SimTraffic. The NYSDOT MOBILE 6.2 emission factor tables dated July 2004 were applied to the traffic data to estimate the effect of the emissions burden of the project in each conformity analysis year. The detailed results of this analysis including a description of the SimTraffic modeling process and formulas are included in *Appendix E*.

The emission impacts of ITS projects in the CDTC TIP were also modeled using a process which was exogenous to the CDTC STEP Model assignments, since these emission impacts are based on improvements to non-recurring, incident related delay. The results of this analysis were then added to

the regional total emission results. A detailed discussion of this analysis is provided in *Appendix B*. The affected projects are:

- PIN 1806.60 Transportation Management Center
- PIN 1806.61 Highway Emergency Local Patrol (HELP) Program
- PIN 1807.03 ITS Elements & Transmit Systems for Capital District Interstates

Consistency of TIP and Plan

None of the projects in the 2005-2010 CDTC TIP, A/GFTC TIP or 2005-2017 Statewide Transportation Improvement Program are anticipated to interfere with the implementation of any project in the New Visions Plan or the A/GFTC Plan and vice versa. All applicable projects were consolidated into one regional emissions analysis that captures the effects of implementing all transportation system improvements in each applicable future analysis year (i.e. 2010, 2015, and 2025).

Regionally Significant Non-Federal Projects

There are no regionally significant non-federal transportation projects scheduled for construction in the Capital District non-attainment area.

Latest Emissions Model

MOBILE 6.2 emission factor tables developed by NYSDOT in July 2004 were used for this analysis. On April 25, 2006, the ICG concurred these emission factor tables are appropriate for use in conformity determinations through October 2006. For future analysis years, the MOBILE 6.2 input files are based on 2003 vehicle registration and diesel fraction data, the Upstate vehicle I/M program, reformulated gasoline. The input files for temperature, humidity, mileage accumulation, start distribution, VMT by hour, and vehicle certification programs used to develop these tables are consistent with those used by NYSDEC in developing the on-road motor vehicle emissions inventory for counties in Upstate New York. For further detail on the MOBILE6 inputs used, refer to http://www.dot.state.ny.us/eab/epm/m6/90_30ema.pdf.

CDTC has developed a post processor program that calculates total emissions for any given traffic assignment. Emission rates for VOC, NOx and carbon monoxide from the NYSDOT emission factor tables are coded into look-up tables used by the STEP Model. For any given traffic assignment, emissions are calculated for each link on the network based on assigned traffic VMT, functional class, total link operating speed, year of analysis and the corresponding emission rate. The total emissions for all links are then aggregated for a regional total. NYSDOT's 2006 Traffic Count Processing Seasonal Adjustment Factors were used to increase VMT in all scenarios to reflect summer traffic volumes, since the highest levels of ozone are usually detected in the summer months.

Regional emissions analysis

In each analysis year, VOC and NO_x emissions in the build/action scenario are less than or equal to corresponding emissions in the no-build scenario. Therefore, the regional emissions analysis demonstrates that the CDTC 2005-2010 TIP and 2025 *New Visions* Plan, 2005-2010 A/GFTC TIP and 2025 Long Range Plan, and 2005-2017 Capital Programs of Transportation Projects in Greene, Montgomery, and Schoharie Counties conform to the New York State Implementation Plan for the 8-hour ozone standard. A table summarizing the regional emissions follows:

Air Quality Impact of the CDTC 2005-2010 TIP, Fiscally Constrained CDTC <i>New Visions</i> Plan, A/GFTC 2005-2010 TIP, A/GFTC 2025 Long Range Plan and the Capital Program of Transportation Projects in Montgomery, Greene, and Schoharie Counties					
Scenario	Volatile Organic Compounds (VOCs) Emissions		Nitrogen Oxides (NO_x) Emissions		Daily Vehicle Miles Traveled (Thousands)
	kg/day	tons/day	kg/day	tons/day	
Year 1990*	60,957	67.19	58,634	64.63	17,776
Year 2002*	39,787	43.86	47,548	52.41	23,114
Year 2010 No-build	19,281	21.25	23,125	25.49	25,231
Year 2010 with 2005-2010 TIP and Financially Constrained New Visions Plan	17,322	19.09	21,173	23.93	23,514
Year 2015 No-build	13,235	14.59	13,751	15.16	26,633
Year 2015 with 2005-2010 TIP and Financially Constrained New Visions Plan	11,322	12.48	12,548	13.83	23,968
Year 2025 No-build	9,284	10.23	6,576	7.25	28,713
Year 2025 with 205-2010 TIP and Financially Constrained New Visions Plan	7,733	8.52	5,978	6.59	25,795

The regional emissions analysis is presented in further detail in *Appendices B - E*.

Public Involvement

The Albany-Schenectady-Troy conformity determination is currently undergoing a public review process administered by CDTC from August 7, 2006 to September 7, 2006 and by A/GFTC from {date} to {date}. Per 6 NYCRR Part 240, the New York State transportation conformity regulation the conformity determination is also being made available for public review for 15 days in Greene, Schoharie, and Montgomery Counties. Any comments on the conformity determination raised during the public review period will be addressed in the final conformity determination. Evidence of public notice will be included in the final conformity determination Appendix G.

* 1990 and 2002 emissions provided for information purposes only.

Evidence of MPO Resolution

The applicable signed CDTC and A/GFTC Policy Board resolutions will be included in Appendix H of the final conformity determination.

Statement of Conformity with the SIP

The attached documentation and information summarized herein demonstrate that all transportation plans and programs in the Albany-Schenectady-Troy 8-hour Ozone Non-Attainment Area are in conformity with the SIP, in accordance with the transportation conformity rules published by EPA and NYSDEC.