

HOUSING TRUST FUND CORPORATION
Environmental Compliance Handbook

Office of Community Renewal state funded program:
Mobile and Manufactured Housing Replacement Program (MMHR)

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I. INTRODUCTION

Awards made under the Office of Community Renewal's state funded grant programs are subject to requirements of the State Environmental Quality Review Act (SEQR) at 6 NYCRR Part 617. Compliance applies to all participants in the development process, including public or private nonprofit or for-profit entities, or any participating contractors.

The primary objective of the environmental review process is to identify specific environmental factors that may be encountered at individual project sites, and to develop procedures to ensure compliance with regulations pertaining to these factors.

Unidentified Project Sites

A **Programmatic** Environmental Compliance Checklist must be completed to document the programmatic environmental review procedures that will apply to **all** project sites later selected for participation. When the review of the Programmatic Environmental Compliance Checklist is complete, the Local Program Administrator (LPA) will receive a determination letter from the Housing Trust Fund Corporation's (HTFC) Environmental Analysis Unit (EAU).

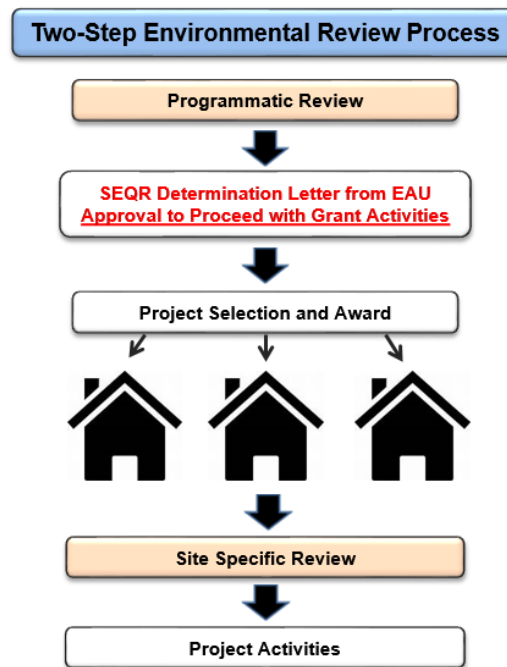
Identified Project Sites

Following receipt of the determination letter, individual **Site-Specific** Environmental Compliance Checklists and associated supporting documentation must be submitted to the Office of Community Renewal (OCR) at the time of Project Set Up for all selected project sites, which is the point of formal commitment of program funds to begin site work.

PLEASE NOTE: The OCR and the EAU must stress that before taking any physical action on a site, or incurring costs related to a specific activity, the **Site-Specific Environmental Checklist** must be completed, submitted for review and approved by OCR. Costs incurred for activities completed prior to the SEQR determination and review of **Site-Specific Checklists** will not be eligible for reimbursement.

II. ENVIRONMENTAL COMPLIANCE PROCESS: OVERVIEW

The following is a step-by-step process to obtain environmental clearance and to develop an appropriate set of environmental review procedures. All referenced forms can be found online here: <https://hcr.ny.gov/mobile-manufactured-home-replacement-program-mmhr#forms---documents>



STEP 1: Prepare Programmatic Environmental Review

A complete Programmatic Review package must include:

1. Environmental Compliance Checklist

The Environmental Compliance Checklist must be completed for a *Programmatic Review* for each awarded contract. The checklist documents each procedure that the LPA will implement to comply with environmental regulations at **all** project sites as a requirement of HTFC environmental clearance.

2. Program Description Form

The Program Description Form must be completed to describe the planned program activities. Sufficient detail must be provided to allow the Environmental Analyst to classify the program under SEQR. Specifically, the Program Description Form must identify if participating projects will or may involve ground disturbance, tree cutting, or new construction, site location in or adjacent to Agricultural Districts, work on a building or site determined by SHPO to have historic or cultural significance, zoning changes or change in actual building use.

3. Supporting Documentation

All applicable maps and supporting documentation must be provided as outlined within the Environmental Compliance Checklist.

STEP 2: Submit to the Office of Community Renewal (OCR)

Send the completed Programmatic Review package containing the Environmental Compliance Checklist, Program Description Form and required maps and supporting documentation as a single PDF document by email to OCRStatePrograms@nyshcr.org.

- Include the associated SHARS ID in the email subject line;
- Please contact the Office of Community Renewal for instructions to submit large format documents that cannot be emailed.

STEP 3: HTFC Issues Determination Letter to Local Program Administrator

HTFC will review the forms and supporting documentation submitted. Revisions or additional documentation may be requested if the materials are determined to be incomplete. Following review by the OCR and the HTFC Environmental Analysis Unit, a determination letter will be issued.

The determination letter must be kept on file with the Environmental Compliance Checklist, as well as all other documentation related to the environmental review for subsequent HTFC monitoring.

STEP 4: Site Selection and Site-Specific Environmental Review

A Site-Specific Environmental Review Checklist must be submitted for each project site at the time of Project Set Up. **These individual Site-Specific Checklists must be submitted to the OCR prior to beginning project activities.** Checklists will require additional supporting documentation and review in circumstances such as:

- Ground disturbance, tree cutting, or new construction;
- Projects in, or adjacent to, Agricultural Districts;
- Work on a building determined by SHPO to have historic or cultural significance;
- Zoning changes;
- A change in actual building use (whether or not this change is locally regulated);
- If the work constitutes a SEQR Unlisted action.

Projects in the categories described above may require either the municipality to conduct a SEQR coordinated review or a review and determination of significance by the HTFC Board.

STEP 5: Conduct Program Activities in Accordance with Policies Described in the Environmental Compliance Checklist and HTFC Determination Letter

The purpose of the environmental review process leading to the HTFC Environmental Determination Letter is to:

1. Identify specific measures to comply with environmental regulations or mitigate adverse impacts at identified project sites or;
2. Provide a roadmap for subsequent environmental review of individual project sites at the time they are selected.

The LPA is responsible for following the procedures established in the Programmatic Environmental Compliance Checklist and Determination Letter.

III. COMPLETING THE ENVIRONMENTAL COMPLIANCE CHECKLIST

Each section of the following Environmental Compliance Handbook outlines specific required compliance procedures and recommended compliance language for use on both the Programmatic and Site-Specific Environmental Checklists.

Sample compliance language has been provided throughout the Handbook for use on both the Programmatic and Site-Specific Environmental Review Checklists. Local Program Administrators are strongly encouraged to use the language provided as it has been specifically crafted to streamline the environmental review process, prevent delay, and comply with the requirements of each section of the Checklists.

Unidentified Project Sites (Programmatic Review)

For the Programmatic review, the Environmental Compliance Checklist is intended to address the local program and determine which regulations may apply to **one or more individual project sites once identified, and those which will not be applicable under any circumstances**. For each regulation, a written compliance procedure must be described in the right-hand column of the checklist. This will include the procedure to review individual project sites if applicable.

Identified Project Sites (Site-Specific Review)

The Environmental Compliance Checklist for Site-Specific review should be tailored to the specifics of each individual project at the time of Project Set Up.

For both Programmatic and Site-Specific review, Local Program Administrators may be contacted for more information if documentation submitted with either Environmental Checklist is considered insufficient or incomplete.

A. Historic Resources

State Historic Preservation Office (SHPO) Review Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law of 1980 requires a publicly-funded project to be reviewed for its potential effect on historic properties.

The New York State Office of Parks, Recreation and Historic Preservation (OPRHP or SHPO) has issued a determination to indicate that projects associated with this state-wide initiative will have no impact on archaeological and/or historical resources listed in, or eligible for, the New York State and National Registers of Historic Places. The determination is based on an understanding that assisted projects will disturb under .25 acres of land. Projects that will disturb more than .25 acres of land must be submitted for assessment by SHPO.

Sample compliance language:

Programmatic Checklist:

“Projects that disturb under .25 acres of land will require no additional review by SHPO. Any project that will disturb over .25 acres, will be submitted to SHPO for an impact determination which will ensure compliance with the New York State Parks, Recreation and Historic Preservation Law. No site activity will occur until SHPO responds with a determination.”

Site-Specific Checklist:

- If disturbance of over .25 acres is NOT expected, compliance language might be:

“The Project does not involve disturbance of over .25 acres. SHPO review is not required.”

- If disturbance of over .25 acres IS expected, compliance language might be:

“The SHPO No Adverse Impact determination is attached.”

OR

“SHPO identified specific conditions as described in the attached determination. The conditions will be incorporated into the project scope of work.”

The SHPO Cultural Resource Information System (CRIS) can be accessed here: <https://cris.parks.ny.gov>

The HTFC SHPO Electronic Project Submission Guide can be found here: <http://www.nyshcr.org/Forms/MMHR/>

B. Floodplain Management

The Local Program Administrator must consider 6 NYCRR Part 502, *Floodplain Management Criteria for State Projects* if any projects are in a Special Flood Hazard Area (SFHA). Each site in the Program must be reviewed for its location with regard to floodplains.

Source documentation for these determinations must be provided with individual Site-Specific Environmental Compliance Checklists and can include a copy of a FIRM map, with the Panel Number and Effective Date, or communication from the local Code Enforcement Officer responsible for a community's participation in the National Flood Insurance Program. If a FIRM map is not clear, a determination should be made by the unit of local government and documented in a letter.

The LPA must ensure that flood insurance is obtained for any project sites located in a 100-year floodplain. Projects involving new construction or placement of a manufactured home in a floodplain must also comply with floodplain design measures per 6 NYCRR Part 502. Proof of flood insurance and design compliance must be submitted with the site-specific checklist and project set-up.

No project may occur within an adopted regulatory floodway per 6 NYCRR 502.4(b)(3).

Sample compliance language:

Programmatic Checklist:

"If a mobile home unit to be replaced is within the 100-year-floodplain, it will be anchored and secured in accordance with 6 NYCRR 502.4(a)(13) and in compliance with the dimensions and drainage provisions detailed in 6 NYCRR 502.4(a)(14). The replacement unit will also comply with all the provisions of 6 NYCRR 502.4(a)(3), (4) and (7). Any funded home unit within a 100-year floodplain will be required to maintain flood insurance."

Site-Specific Checklist:

- If the project is not in the SFHA, compliance language might be:

"The project will not occur within the 100-year flood plain. A copy of the FIRM map, with the Panel Number and Effective Date is included."

- If it is determined that the project site is within the 100-year floodplain, it must be documented that the project activities will comply with 6 NYCRR 502(a)(13), 6 NYCRR 502.4(a)(14) and 6 NYCRR 502.4(a)(3), (4) and (7). Appropriate compliance language might be:

*"The project will occur within the 100-year floodplain. Documentation of compliance with 6 NYCRR Part 502, *Floodplain Management Criteria for State Projects*, as applicable, is attached."*

Source documentation must include: a certification from a design professional certifying that specific floodplain design measures are being implemented as per 6 NYCRR Part 502, *Floodplain Management Criteria for State Projects*. A design professional will be an engineer, architect or land surveyor.

Additionally, documentation of an inspection by the local floodplain manager must be submitted at Project Completion.

Instructions for creating a FIRM Map

1. Go to: <https://msc.fema.gov/>;
2. Enter the project site address in the search tool and hit enter or select search;
3. Click on the View Map icon;
4. Click on *Make a FIRMette*;
5. Move red box over the service area or project site;
6. Click on the *Adobe PDF* icon under *Create FIRMette*;
7. Save.

6 NYCRR Part 502, *Floodplain Management Criteria for State Projects* is available online, here: <http://www.dec.ny.gov/regs/2490.html>

FIRM maps are available from local or county environmental or planning agencies, the New York State Department of Environmental Conservation (DEC), or the Federal Emergency Management Agency (FEMA), at the FEMA Map Service Center (800-358-9616), or <https://msc.fema.gov/>

C. Zoning

Each site to be assisted by Office of Community Renewal state funded programs must be reviewed with regard to its zoning classification and proposed use. Project sites must conform to the relevant local land use plans and must receive all necessary zoning and site plan approvals and permits. The project may be classified as an Unlisted action under the State Environmental Quality Review Act (SEQR) and require further review if a zoning change is required.

Documentation for these determinations must be provided for Site-Specific reviews. Documentation should include a letter from the local municipality confirming the proposed use of the project is permitted according to the existing zoning classification of the project site. If the project requires a variance or special use permit for issuance of a building permit, approval documentation should be provided.

If a project involves a zoning change, either a SEQR Coordinated Review should be conducted or the project will be reviewed by the HTFC Board.

Sample compliance language:

Programmatic Checklist:

“A zoning determination will be prepared and submitted to identify if any program activities will require local approvals, variances, special permits or any other modifications to the existing zoning classification of each project.”

Site-Specific Checklist:

- If the project will comply with the existing zoning classification and does not require variances or special permits:

“The project will not require zoning modifications, variances or a special use permit for issuance of a building permit. See attached documentation.”

- If the project will require any zoning modifications, compliance language might be:

“The project requires a special use permit; approval documentation is attached.”

D. Coastal Zone Management

19 NYCRR Part 600, *Coastal Zone Management* establishes requirements for review of a state-funded project in the Coastal Zone if its SEQR classification is Type 1 or Unlisted. In New York State, the Coastal Zone includes land areas adjacent to Lakes Erie and Ontario, the St. Lawrence, East, Harlem and Niagara Rivers, the Hudson River south of the Federal Dam in Troy, the Kill van Kull and Arthur Kill, Long Island Sound, the Atlantic Ocean, and the connecting water bodies, bays, harbors, shallows and marshes.

Source documentation for these determinations must be provided and can include a copy of the applicable Coastal Zone boundary map or correspondence with the local municipality.

Sample compliance language:

Programmatic Checklist:

- If the program service area or buildings are not located in the coastal zone, compliance language might be:

“The project site or service area is not located within the coastal zone as documented in the attached.”

- If the program service area is located within the designated coastal zone, compliance language might be:

“Portions of the service area are located within the coastal zone and the LPA will comply with 19 NYCRR Part 600.”

Site-Specific Checklist:

- If the identified project site is not located in the coastal zone, compliance language might be:

“The project site is not located within the coastal zone as documented in the attached coastal zone boundary map.”

- If the identified project site is located in the coastal zone, compliance language might be:

“The project is located within the coastal zone but is not a Type I or Unlisted action.”

“The project is located within a coastal zone and is classified as a Type I or Unlisted action. The LPA will comply with 19 NYCRR Part 600 and the HTFC will provide notification of the action to New York State Department of State prior to clearance.”

Accessing the Coastal Zone Boundary Map

1. Go to: <http://www.dos.ny.gov/opd/atlas>;
2. Click on the Map in the center of the screen;
3. Enter an address of the service area or project site and hit enter;
4. Make sure the Coastal Boundary layer is “checked” in the Legend;
5. Zoom in as necessary to show the service area or project site in relation to the nearest Coastal Boundary;
6. Click Tool icon on the top right corner of the map;
7. Select *Print Map*;
8. If necessary, enable Pop-Ups on the browser by selecting ‘Always allow pop-ups from <http://opdqig.dos.ny.gov> and click *Done*;
9. Click *Export*;
10. Save.

A Coastal Zone boundary can be determined by calling the local planning office or online mapping is available online, here:
<http://www.dos.ny.gov/opd/atlas>.

NOTE: In some cases, a Program could be within a Local Waterfront Revitalization Program (LWRP) area. Administrators must contact the municipal or county planning departments to determine if the program is within a LWRP boundary.

E. Site Contamination (Hazardous Materials)

Projects funded under Office of Community Renewal state funded programs must be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances which could affect the health and safety of occupants or users or conflict with the intended utilization of the property. Consideration must be given to the subject property and adjacent sites in the general proximity of such areas as dumps, landfills, industrial sites, or other locations that contain, or may have contained, hazardous wastes. Examples of areas that contain, or may have contained, hazardous wastes include, but are not limited to: dry cleaning facilities, producers of plastics, producers of medicines, waste water treatment facilities, and chemical manufacturing plants.

Each site must be evaluated by an environmental professional, including a site visit, to determine if the site is located on or near any hazardous materials or contamination. The environmental professional must provide a certification letter that **specifically** states:

“The site was visited by _____ on _____ and determined free from hazardous materials, contamination, toxic chemicals and gases, and radioactive substances which could affect the health and safety of occupants or users or conflict with the intended utilization of the property. I, [Name], certify that I am an environmental professional as per ASTM 1527.”

If an environmental professional cannot provide the above certification letter, further study must be completed as recommended and the LPA must certify that it will follow all recommendations and, with the guidance of the environmental professional, ensure the site meets this OCR policy:

“The site was visited by _____ on _____ and determined to have potential environmental hazards as outlined in the attached documentation, [LPA Name] certifies that all recommendations provided by the environmental professional will be followed and, with the guidance of the environmental professional, ensure the site meets OCR policy.”

Sample compliance language:

Programmatic Checklist Language:

- If the program involves mobile home demolition, removal and replacement or new construction, compliance language might be:

“Any mobile home replacement or new construction within the program’s service area will be assessed to determine its environmental condition. If the condition of the property is unknown, or a possible environmental hazard is suspected, the LPA will proceed with the advice and guidance of an environmental professional. If so advised, further study will be completed as recommended.”

Site-Specific Checklist Language:

- If no environmental concerns have been identified, the compliance language should be:

“An environmental professional has conducted a site visit and certified that the project site is free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances. Documentation is attached.”

- If potential hazards have been identified, compliance language should be:

“An evaluation and site visit identified potential hazards as documented in the attached. All recommendations will be followed and, with the guidance of the environmental professional, ensure the site meets OCR policy as certified in the attached.”

The American Society for Testing and Materials Standard (ASTM) defines “environmental professional” as:

- A person who holds a Baccalaureate or higher degree in a relevant science or engineering field plus the equivalent of five years relevant work experience OR
- A person who holds a current engineer’s or professional geologist license or registration from a state, tribe or U.S. territory OR
- An official of the site locality’s Building Department with expertise in assessing environmental conditions OR
- A person who has the equivalent of ten years relevant work and field experience in performing environmental site assessments.

F. Lead-Based Paint

The EPA's Lead Renovation, Repair and Painting Rule (RRP Rule) applies to all firms performing renovation, repair, and painting projects that disturb lead-based paint in homes and child occupied facilities constructed **prior to 1978**. The firms must be certified by the EPA (or an EPA authorized state), use certified renovators trained by EPA approved training providers and follow lead-safe work practices to prevent lead contamination. The full RRP Rule is available at 40 CFR Part 745, Subpart E, sections 745.80 – 745.92. Mobile homes and manufactured homes are included in the RRP Rule.

Sample compliance language:

Programmatic Checklist Language:

- If the program involves exempt projects only, compliance language might be:
“The program only involves buildings that were originally placed in service after 1/1/78.”
Source documentation of build date must be provided such as tax documentation or a Property Description Report.
- If the program will involve any buildings constructed prior to 1978 where disturbance of paint may occur, compliance language might be:
“Any activities that will involve the disturbance of painted surfaces will be conducted in accordance with the EPA RRP Rule. Demolition or disposal will comply with all applicable laws and regulations.”

Site-Specific Checklist Language:

- If the project involves a housing unit constructed after 1/1/1978, compliance language might be:
“The project involves a housing unit constructed after 1/1/1978.”
- If the project will involve activities that may disturb painted surfaces, all work will be conducted in accordance with the EPA RRP Rules:
“The project involves activities that may disturb painted surfaces. All work will be conducted in accordance with the EPA RRP Rules.”
- If the unit will be transported off site for disposal or demolition, the unit must be disposed of at a properly licensed facility.
“The unit will be transported off site for disposal or demolition. All LBP will be disposed of at a properly licensed facility. The LPA will maintain all compliance documentation for potential audit by HTFC.”

G. Asbestos Containing Materials

If asbestos-containing materials (ACM) will be disturbed as part of program activities, they must be handled and disposed of according to NYS Department of Labor requirements at 12 NYCRR Part 56. For projects involving demolition, 12 NYCRR Part 56-11.5 must also be specifically followed.

Exposure to asbestos fibers, a known carcinogenic agent, creates a serious risk to the public safety and health. All work that disturbs ACM must be done by trained workers following special procedures and engineering controls to prevent the spread of asbestos into the air and ensure that ACM have been properly removed.

The NYS Department of Labor instructs that an asbestos survey must be completed by a certified Asbestos Inspector whenever all or part of a building or structure will be demolished, renovated, remodeled or repaired. The survey will determine if the planned work will disturb asbestos material.

Any unit to be demolished or deconstructed must have an asbestos survey conducted. Any unit to be demolished must be disposed of in a disposal/recycling facility that is certified by the NYS Department of Conservation (DEC) to receive, process and recycle and/or dispose of mobile/manufactured home components.

Sample compliance language:

Programmatic Checklist Language:

“Asbestos Containing Materials (ACM) that will be disturbed as part of program activities will be handled and disposed of according to NYS Department of Labor requirements at 12 NYCRR Part 56 and local regulations.”

Site-Specific Checklist Language:

- If the unit will be demolished or deconstructed on-site, compliance language might be:

“Asbestos Containing Materials (ACM) that will be disturbed as part of program activities will be handled and disposed of according to NYS Department of Labor requirements at 12 NYCRR Part 56 and local regulations.”

- If the unit will be demolished off-site, compliance language might be:

“The unit will be demolished or deconstructed off-site and disposed of in a disposal/recycling facility that is certified by the NYS Department of Conservation (DEC) to receive, process and recycle and/or dispose of mobile/manufactured home components.”

NYS Department of Labor 12 NYCRR Part 56, *Asbestos*, is available online, here: <http://www.labor.state.ny.us/formsdocs/wp/CR56.pdf>

Also see: *Asbestos in New York State Facts and Responsibilities*
<https://www.labor.ny.gov/formsdocs/wp/p224.pdf>

H. Radon

Project sites or service areas located in Zones 1 and 2 (moderate to high) of the EPA Map of Radon Zones, where new construction or rehabilitation of residential units or residential common areas will occur, must be tested for radon. If elevated levels are encountered, a radon mitigation system must be installed in accordance with EPA *Radon Mitigation Standards*.

Radon gas is regarded as a Group A carcinogen. The United States Environmental Protection Agency (EPA) has set an action level of 4.0 picocuries per liter (pCi/L). An elevated radon level occurs if the results of one long-term test or the average of two short-term tests show radon levels of 4pCi/L or higher. Any radon exposure has some risk. If the level is between 2 and 4 pCi/L, the EPA still recommends corrective measures to reduce exposure to radon gas.

Radon typically moves up through the ground to the air above and into a building through cracks and other holes in the foundation. The building traps radon inside, where it can build up. Any building may have a radon problem. This means new and old buildings, well-sealed and drafty buildings, and buildings with or without basements.

A post-construction radon test is required. Radon testing instructions dictate that testing should be conducted in the lowest livable floor of a building that is used on a regular basis. If the basement is not used on a regular basis, or the building does not have a basement, testing should be conducted in the next lowest livable floor. Testing must be conducted for all projects assisting residential units or residential common areas.

Please note that installing a radon mitigation system post-construction can be costly in manufactured homes due to how these buildings are designed and built. The recommended method is to pre-install a passive radon system (the complete system, excluding the fan) as part of the project which can be activated by adding a fan if elevated radon levels are found during post-construction testing.

Sample compliance language:

Programmatic Checklist Language:

- If the service area is in an area with a low radon level, compliance language might be:

“The service area is located in a zone with low potential for radon according to the EPA Map of Radon Zones. Radon testing is not required.”

Source documentation must include: A copy of an EPA Map of Radon Zones that contains the project site or service area.

- If the service area is in an area of moderate to high radon level, compliance language might be:

“The service area is in a zone with moderate or high potential for radon levels to exceed the U.S. EPA action level (4pCi/L or higher). New construction or rehabilitation of residential units will include post-construction testing and if elevated levels are found, a radon mitigation system will be installed in accordance with EPA Radon Mitigation Standards.”

Site-Specific Checklist Language:

- If the service area is an area of moderate to high radon level, compliance language might be:

“The project includes assistance to residential units located in an area with high or moderate potential for radon levels to exceed the U.S. EPA action level (4pCi/L or higher). Radon testing will be conducted post-construction and, if elevated levels are found, a radon mitigation system will be installed in accordance with EPA Radon Mitigation Standards. Documentation of test results or installation of a mitigation system will be provided at project completion.”

The EPA Map of Radon Zones can be accessed online, here:

<http://www2.epa.gov/radon/find-information-about-local-radon-zones-and-radon-programs>

I. Wetlands

Funded projects that involve ground disturbance may be subject to NYS Department of Environmental Conservation (DEC) and/or U.S. Army Corps of Engineering (ACOE) wetland regulations. For all projects, both the DEC and US Fish and Wildlife Maps of jurisdictional wetlands must be consulted. In addition to consultation of wetlands maps, if the LPA or HTFC suspects the potential presence of wetlands in the areas to be disturbed, a formal jurisdictional review or qualified biologist delineation may be required to confirm whether wetlands will be disturbed.

Under New York State regulations, a permit must be obtained from DEC prior to conducting regulated activities in or within 100 feet of state-protected freshwater wetland areas mapped by the agency. Regulated activities are described in DEC permit regulations at 6 NYCRR Part 663. Within the boundaries of the Adirondack Park, state wetland regulations are administered by the Adirondack Park Agency (APA).

Additionally, Section 404 of the Clean Water Act provides for jurisdiction by ACOE over “waters of the United States,” including most wetland areas, even those that may not be mapped by FWS or DEC. Activities disturbing these areas may be subject to ACOE permitting requirements.

Sample compliance language:

Programmatic Checklist Language:

“Prior to the start of project work, a wetlands determination will be made and, if necessary, a permit will be obtained from the DEC or ACOE prior to construction.”

Site-Specific Checklist Language:

- If the project does not impact wetlands and does not require a permit, compliance language might be:

“The project will not impact wetlands as documented in the attached wetland map or correspondence.”

- If the project does impact wetlands or requires a permit, compliance language might be:

“A permit is required and has been secured. Documentation is attached.”

Source documentation must include: A map of state-protected wetlands that contains the project site or service area or correspondence with the DEC.

A more comprehensive review may be needed for larger projects involving ground disturbance, the LPA will be contacted if that is the determination.

Maps of state-protected wetlands are available at DEC regional offices (www.dec.ny.gov/about/558.html), or online at: <https://gisservices.dec.ny.gov/gis/erm/>

Instructions for creating an Environmental Resource Map

1. Click on the *Search* tab;
2. Enter the address of the project site or an address of the target area and click the search icon;
3. Click on *Layers & Legend* tab;
4. Check the boxes for State Regulated Wetlands and National Wetlands Inventory;
5. Zoom in or out as necessary;
6. Click on the Tools tab and then the Print icon;
7. In *Printout Template* select PDF then click on *Print Map*.

J. Endangered Species

Projects that involve ground disturbance or tree cutting may be subject to endangered and threatened species regulations and must be checked on the NYS Department of Environmental Conservation (NYSDEC) Environmental Resource Mapper (ERM) and the US Fish and Wildlife Service's (FWS) Information for Planning and Consultation Tool must be used to obtain an official federal species list. An endangered species investigation may be required if it is determined that state or federal species could be impacted by project activities.

1. Check the NYSDEC Environmental Resource Mapper:
 - Enter the address and turn on the Significant Natural Communities (pink) and Rare Plants or Animals (orange) layers;
 - If the site is **not** in an orange or pink shaded area, include this map with the environmental compliance checklist and move to step 3;
 - If the site is in the orange or pink go to step 2.
2. Consult with the NYS Natural Heritage Program to determine if the project area is known to contain state listed rare, threatened or endangered species, or associated critical habitat. Include documentation of response with the environmental compliance checklist. Instructions for requesting a project screening from NY Natural Heritage are available here: <http://www.dec.ny.gov/animals/31181.html>. Move on to step 3.
3. Follow the directions provided on the US Fish and Wildlife Service's (FWS) website (also below) and use the Information for Planning and Consultation Tool (IPaC). Provide the resulting documentation, demonstrating if any federally-listed rare, threatened, or endangered species or habitats exist on the site - <http://ecos.fws.gov/ipac/>
4. The Office of Community Renewal will determine if additional consultation through the NYS Department of Environmental Conservation or US Fish and Wildlife Service is required.

Sample compliance language:

Programmatic Checklist Language:

"The NYSDEC Environmental Resource Mapper will be reviewed for projects that involve ground disturbance or tree cutting. If a project with site disturbance is in an area of "rare plants and rare animals," "significant natural communities," or "natural communities' vicinity," a request for information will be submitted to New York State Natural Heritage Program. If ground disturbance or tree cutting are involved, an official species list from the US Fish and Wildlife Service Information for Planning and Consultation website will be provided."

Site-Specific Checklist Language:

- If ground disturbance or tree cutting are NOT expected to take place, compliance language should be:

"The project does not involve ground disturbance or tree cutting."
- If ground disturbance or tree cutting ARE expected to take place, compliance language should be:

“The project involves ground disturbance and/or tree cutting. The Environmental Resource Mapper was reviewed; the project is not within an area of any rare plants or animals. An official species list from the US Fish and Wildlife Service Information for Planning and Consultation website is also attached.”

OR

“The project involves ground disturbance and/or tree cutting. The NYSDEC Environmental Resource Mapper was reviewed and the project site is within an area of rare plants or animals. Correspondence with the NYS Natural Heritage Program is attached. An official species list from the US Fish and Wildlife Service Information for Planning and Consultation website is also attached.”

Copies of Environmental Resource Maps, correspondence with the New York State Natural Heritage Program (NYNHP) and the documentation created pursuant to the USFWS search should be included as source documentation. A more comprehensive review may be needed for larger projects involving ground disturbance and/or tree cutting/removal.

Instructions for using the Environmental Resource Mapper

1. Go to the Environmental Resource Mapper webpage - <https://gisservices.dec.ny.gov/gis/erm/>;
2. Click on the Search tab;
3. Enter the address of the project site or an address of the target area and click the search icon;
4. Click on Layers & Legend tab;
5. Check the box for All Layers;
6. Zoom in or out as necessary;
7. Click on the Tools tab and then the Print icon;
8. In Printout Template select PDF then click on Print Map;
9. Save.

Instructions for using the Information for Planning and Consultation Tool (IPaC)

1. Go to the US Fish and Wildlife Service’s (FWS) website and use the Information for Planning and Consultation Tool (IPaC): <http://ecos.fws.gov/ipac/>;
2. Click on the Get Started;
3. Enter the project site address;
4. Circle the site on the map and press continue;
5. Click on Define Project and create an account;
6. Confirm the account and enter the project name and project description;
7. Click on Request Species List;
8. Click Yes, Request a Species List;
9. Click Species List: New York Ecological Services Field Office.

K. Agricultural Districts

New York State Agriculture and Markets Law requires site review if the project involves conversion of farmland to nonagricultural use in a state Agricultural District certified pursuant to Agriculture and Markets Law, Article 25-AA, sections 303 and 304. Any project that is not considered replacement in-kind and within the same footprint or involves new construction is also subject to section 305(4). If this type of project is located within a county-adopted NY State certified agricultural district, a Notice of Intent (NOI) to undertake an action within an Agricultural District must be completed by HTFC and submitted to the Commissioner for New York State Department of Agriculture and Markets.

Additionally, any project requiring a special use permit, site plan, subdivision approval or use variance, which requires approval by a planning, zoning, town or village board must submit an Agricultural Data Statement (ADS) if the proposed project occurs on property within an agricultural district containing a farm operation or on property with boundaries within 500 feet of a farm operation located within an agricultural district. The clerk of the appropriate governmental entity is required to complete and submit the ADS.

Sample compliance language:

Programmatic Checklist Language:

“The program service area includes New York State Agricultural Districts. All new construction sites will be reviewed to determine whether their location is situated in a New York State Agricultural District and whether or not a site is within 500 feet of a farm operation in an Agricultural District and requires a local approval.”

Site-Specific Checklist Language:

- If the project is not located in an agricultural district, does not involve activities with potential to convert farmland to nonagricultural use, or an ADS is not required, compliance language might be:

“The project is not located in an agricultural district or does not involve any activities with potential to convert farmland to nonagricultural use and does not require an Agricultural Data Statement.”

- If the project site is within 500 feet of a farm operation in an Agricultural District and requires a local approval such as special use permit or planning board approval, the municipality must provide an Agricultural Data Statement (ADS), compliance language might be:

“The project site is within 500 feet of an active farm operation and the project requires local approval, an Agricultural Data Statement is attached.”

- If the project includes new construction, site disturbance, or is not considered replacement in-kind and within the same footprint and is located in a state Agricultural District, compliance language might be:

“The site is within a New York State Agricultural District, EAU will be contacted to begin the consultation process with the New York State Department of Agriculture and Markets.”

In this case, copies of Agricultural District maps, a complete site plan of the work to occur, a copy of the ADS and a complete project description should be included as source documentation for site specific reviews.

Local Agricultural District contact information and County Agricultural District Map Data can be accessed online, here:
www.agriculture.ny.gov/AP/agsservices/agricultural-districts.html