HOUSING TRUST FUND CORPORATION

Environmental Compliance Handbook

Office of Resilient Homes and Communities (RHC) single-family, state-funded programs including:
Resilient Retrofits (NYRR)
Rapid Response (RRHR)

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I. INTRODUCTION

Awards made under the Office of Resilient Homes and Communities' (RHC) state funded single family 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 of 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.

For programs that have not identified individual project sites at the time of contract execution, a Programmatic Environmental Compliance Checklist must be completed to document the programmatic environmental review procedures that will apply to projects 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 Unit (EU). Following receipt of the determination letter, individual site-specific Environmental Compliance Checklists and associated supporting documentation must be submitted to the RHC at the time of Project Set up, which is the formal commitment of program funds.

HTFC will also review compliance with these procedures as part of the contract monitoring process.

Grant activities cannot begin until an environmental determination letter is received. However, over the course of the contract, RHC may determine that the LPA has sufficient experience to complete the site-specific review and proceed without RHC approval for each site. This is at RHC's discretion, and the LPA must receive approval for this approach in writing from RHC. LPA must retain all documentation of compliance and make available to RHC in case of audit.

II. ENVIRONMENTAL COMPLIANCE PROCESS: STEP BY STEP

The following is a step-by-step process to obtain environmental clearance and to develop an appropriate set of programmatic environmental review procedures. All referenced forms can be found online:

https://hcr.ny.gov/resilient-retrofits
https://hcr.ny.gov/rapid-response-home-repair-programs

The LPA is responsible for following procedures established in the Environmental Compliance Handbook. This includes early correspondence with participating property owners to ensure the project complies with Environmental Review procedures.

STEP 1: Complete Programmatic Environmental Compliance Checklist

The Programmatic Environmental Compliance Checklist must be completed 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. Each section of the Environmental Compliance Handbook outlines specific required compliance procedures and recommended compliance language for use on the Checklist.

STEP 2: Submit to RHC

Send the completed Programmatic Environmental Compliance Checklist(s), Program Description Form and required supporting documentation as a single PDF document by email to the Program email address:

- Resilient Retrofits: resilient.retrofits@hcr.ny.gov
- Rapid Response: floodprograms@hcr.ny.gov

Include the associated SHARS ID in the email subject line.

Please contact the RHC for instructions to submit large format documents that cannot be emailed.

STEP 3: HTFC Issues Determination Letter to LPA

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 RHC and the HTFC Environmental Unit, a determination letter will be issued. The LPA must keep the determination letter on file with the Environmental Compliance Checklist(s), as well as all other documentation related to the environmental review for subsequent HTFC monitoring.

Please note: RHC may contact Local Program Administrators for more information. **Grant activities, including accepting applications, cannot begin until the LPA receives environmental determination letter from HTFC EU.**

STEP 4: 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. As project sites/buildings are identified, individual site-specific checklists and associated documentation must be submitted to the RHC at the time of Project Set up or commitment of funds.

STEP 5: Site Specific Review

Following receipt of the programmatic determination letter, individual site-specific Environmental Compliance Checklists and associated supporting documentation must be submitted to RHC at the time of Project Set up, which is the formal commitment of program funds.

RHC and the EU stress that, before taking any physical action on a site and incurring costs related to a specific activity, the site-specific environmental checklist must be completed and submitted to RHC for review. Costs incurred for activities completed prior to the SEQR determination and submission of site-specific checklists will not be eligible for reimbursement.

As stated in the Introduction of this Handbook, over the course of an LPA's contract, RHC may determine that the LPA has sufficient experience to complete the site-specific review and proceed without RHC approval for each site. This is at RHC's discretion, and the LPA must receive approval for this approach in writing from RHC.

Checklists will require additional supporting documentation and review in circumstances such as, but not limited to:

- substantial improvement in a 100- or 500-year flood zone
- projects in, or adjacent to, Agricultural Districts
- work on a building determined by SHPO to have historic or cultural significance
- ground disturbance
- zoning changes
- a change in actual building use (whether or not this change is locally regulated)
- acquisition, new construction of, or expansion or reconstruction of infrastructure
- 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.

HTFC Board Review / SEQR Coordinated Review

Under SEQR, proposed activities are classified according to criteria at 6 NYCRR Part 617.4 and 617.5 to determine if they are Type I, Type II, or Unlisted actions. If a participating project involves an action that is deemed Type I or Unlisted, a review and determination of significance must be conducted by the HTFC Board. In lieu of HTFC Board review, the municipality can conduct a SEQR coordinated review. SEQR Coordinated review is the process by which all involved agencies (state agencies and local and county government) cooperate in one integrated environmental review to avoid segmentation and expedite review of a project. At the municipal level, SEQR review is typically conducted during review of site plan, special use permit, or variance applications.

If a SEQR coordinated review is not conducted for Type I or Unlisted actions, the HTFC Board must conduct a separate review of the project. This could take between 45-60 days, depending upon the HTFC Board meeting schedule. Therefore, it is recommended to first determine if the municipality can conduct a SEQR coordinated review, to avoid repetitive review and delays in project execution. So, if the local municipality requires a project to be reviewed (e.g. site plan, special use permit, or variance applications), AND the project falls in one of the categories described above, the participating property owner should inform the municipality that they are also receiving funding from RHC/HTFC, and request that a coordinated review take place.

If a project involves a Type I or Unlisted action, but does not require local municipal review, the project must be reviewed by the HTFC Board for a determination of significance. For example, if the project involves a change in building use from commercial to residential, but the local municipality does not require a special use permit for the project triggering a local SEQR review, the project may need to be reviewed by the HTFC Board for a determination of significance.

III. COMPLETING THE ENVIRONMENTAL COMPLIANCE CHECKLISTS

This section contains topic-by-topic guidance on completing both the Programmatic Environmental Checklist and the Site-Specific Checklist.

RHC and the EU stress that, before taking any physical action on a site and incurring costs related to a specific activity, the site-specific environmental checklist must be completed and submitted to RHC for review. Costs incurred for activities completed prior to the SEQR determination and submission of site-specific checklists will not be eligible for reimbursement.

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.

Programmatic Checklist: By signing the Programmatic Checklist, LPA certifies to the language on the checklist, which describes that it will review each site for exemption, and that it will submit non-exempt projects to SHPO for determination and any concerns or conditions.

Site-Specific Checklist: There are specific exemptions from SHPO review for certain activities. The *Historic Preservation Worksheet for State-Funded Projects* can be utilized to determine whether projects are exempt from review.

- If the LPA determines that a project is exempt from SHPO review, select the appropriate option on the Site Specific Checklist. The Worksheet must be provided as compliance documentation, including documentation described on the Worksheet. Documentation may include:
  - Proof of age of building
  - Cultural Resource Information System (CRIS) search page print out
  - Worksheet Attachment A

- If a project activity is not exempt (i.e., consists of activities beyond those listed on the excepted activity list), the LPA must submit building information and proposed project scopes of work to the New York State Office of Parks, Recreation and Historic Preservation (OPRHP or SHPO) for review. Instructions for submission are posted on the RHC Program websites. Complete the Site-Specific Checklist by selecting the appropriate language and attaching SHPO determination (either "No Impact"/"No Adverse Impact" or SHPO determination with conditions).

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: https://hcr.ny.gov/shpo-electronic-project-submission-guide

The Historic Preservation Worksheet for State-Funded Projects found here: https://hcr.ny.gov/hcr-historic-preservation-worksheet

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 and can include a copy of a FIRM map, with the Panel Number and Effective Date, or communication from the local Floodplain Manager 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 Floodplain Manager and documented in a letter.

Programmatic Checklist: LPA must select the appropriate option to indicate whether any of its target area is located in the 100- or 500-year floodplain. If the target area is NOT within the 100-year and/or 500-year floodplain, the LPA must attach a copy of the FIRM map, with the Panel Number and Effective Date is included.

If FEMA has not completed a study to determine flood hazard for a program location and no flood map has been published, LPA should contact RHC.

Site-Specific Checklist:

- If the project is NOT in the 100-year and/or 500-year floodplain, source documentation must clearly identify the project location on the FIRM map. Additional documentation may be required if proximity to floodplain is unclear. This could include a formal determination by the local municipal floodplain manager and documented in a letter.

- If it is determined that the project site is within the 100-year and/or 500-year floodplain, it must be evaluated and documented whether the proposed scope of work can be classified as "substantial improvement." Substantial Improvement is defined as, *"any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the replacement value of the structure,"* per 6 NYCRR Part 502.2(bb)(1), *Floodplain Management Criteria for State Projects.*

    - If the project is not classified as substantial improvement, LPA must attach documentation showing the substantial improvement calculation. If the building's tax assessed value is used as the replacement value of the structure, that figure must be adjusted to current market value. If there are scope items proposed that LPA believes should not count toward this calculation because they are directly related to health/safety to ensure safe living conditions, please contact local code officer or equivalent and RHC for guidance.

    - If the project site is within the 100-year and/or 500-year floodplain and will involve substantial improvement or new construction of structures, public infrastructure or utilities, notify RHC so the project can be submitted to the Environmental Unit (EU) for further consultation.

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 *Dynamic Map* icon to produce a map
4. If the created map does not include the full target area, click on *Go To NFHL Viewer* from the main page.
5. Click on the pin tool icon and drop the pin in the target area.
6. Change the Size to *Full FIRM*, scroll down, and click *Execute*
7. *Save*
8. Save as a PDF
9. Annotate the document so the project site is clearly identified.

FIRM maps are available online here: https://msc.fema.gov/

6 NYCRR Part 502, *Floodplain Management Criteria for State Projects* is available online here: https://www.fema.gov/pdf/floodplain/nfip_sg_unit_8.pdf

For additional assistance, please see: Finding a Property's Floodplain

C. Zoning

Each site to be assisted by RHC 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 or the renovation project will result in a change in building use.

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.

The Checklist language must also specifically communicate if a participating project will involve a change in building use (whether or not this change is locally regulated). If a project involves a change in building use, either a SEQR Coordinated Review should be conducted or the project may be reviewed by the HTFC Board (see page 4).

Programmatic Checklist (section may be titled “Municipal Approval” instead of “Zoning”): By signing the checklist, the LPA certifies that they will ensure each project obtains all necessary municipal approvals and that they will contact RHC if the municipality classifies a project as Unlisted or if the municipality indicates that further SEQR review is required. Typically, this happens when a project involves changing use from commercial to residential or vice versa.

Site-Specific Checklist: For both C1 and C2, indicate the appropriate answer on the checklist and attach documentation.

- C1: Indicate whether the project requires any zoning modifications, variances, special use permits, or other local approvals prior to issuance of a building permit. If the project DOES require additional approvals, contact RHC to review approval documentation from municipality.

- C2: Indicate whether the project will result in a change in the building use. If the project does result in a change in building use, contact RHC to obtain approval prior to proceeding.

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.

Programmatic Checklist: Select the appropriate language depending on whether the program target area has areas located in the coastal zone. If required, attach mapping.

Site-Specific Checklist: Select the appropriate language depending on whether the identified project site is located in the coastal zone.

- If the project is NOT located in the coastal, attach a coastal zone boundary map.
- If the project is located in the coastal zone, LPA must indicate whether the project is a Type I or Unlisted action. Typical Rapid Response and Resilient Retrofits 1-4 unit home rehabilitation projects are NOT Type I or Unlisted actions. If your project is a Type I or Unlisted action, please contact RHC for further guidance.
    - To determine whether an action is Type I, Type II, or Unlisted, refer to 617.4-617.5(c)(2): 6 NYCRR Part 617 - State Environmental Quality Review. Any action not listed under Type I or Type II in this document is considered Unlisted.

Accessing the Coastal Zone Boundary Map

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

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. Lead-Based Paint

All programs and site specific projects must comply with the “EPA Renovation, Repair and Painting Rule” (RRP) rule. This means that all activities in dwelling units or child occupied facilities that were constructed prior to 1978 must be evaluated for hazards posed by lead-based paint. Additionally, exterior renovations that include residential window repair or replacement, repair of exterior sills and lintels, or other improvements that may impact window openings into residential (or child-occupied facility) floors must also be evaluated for hazards posed by lead-based paint. Contractors performing renovation, repair and painting projects that may disturb lead-based paint must be EPA certified and follow specific work practices to prevent lead contamination.

LPAs must maintain documentation of compliance to be reviewed by RHC in case of audit.

Programmatic and Site Specific Checklist: LPAs certify that projects will comply with the EPA Renovation, Repair, and Painting Rule.

F. 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 and that the public is more frequently exposed to these risks as a result of an increasing number of rehabilitation, reconstruction, and demolition projects on buildings or structures containing asbestos or asbestos materials.

The New York State Department of Labor's Asbestos regulations protect the public from exposure to asbestos fibers. This law requires that all work that disturbs ACM be done by trained workers following special procedures and engineering controls to prevent the spread of asbestos into the air and ensure ACM has been properly removed. The regulation protects people who live and work in buildings with asbestos and the workers who disturb the asbestos.

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.

LPAs must maintain documentation of compliance (e.g., asbestos survey and clearance documentation) to be reviewed by RHC in case of audit.

Programmatic and Site-Specific Checklists: LPA certifies that Asbestos Containing Materials (ACM) that will be disturbed as part of the program activities will be handled and disposed of according to the NYS Department of Labor.

NYS Department of Labor 12 NYCRR Part 56, *Asbestos,* is available online, here: https://dol.ny.gov/system/files/documents/2023/12/icr56.pdf

Also see: *Asbestos in New York State Facts and Responsibilities* https://dol.ny.gov/system/files/documents/2024/02/p224-2-23-2024.pdf

G. Agricultural Districts

New York State Agriculture and Markets Law requires site review if the project is 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. This review consists of an Agricultural Impact Statement and a Notice of Intent submitted to the NYS Department of Agriculture and Markets (NYSDAM) for review and consideration.

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.

Programmatic Checklist: LPA must indicate whether the target area contains any New York State Agricultural Districts. If it does not, LPA must attach a map (see resource below).

Site-Specific Checklist:

- If resolved in the Programmatic Environmental Review, check the appropriate box.

- If not resolved in the Programmatic Environmental Review:
    - If the project is not located in an agricultural district and does not involve activities with potential to convert farmland to nonagricultural use or an ADS, check the appropriate box and attach mapping.

    - If the project is located in a state Agricultural District or within 500 feet of an active farm operation, contact RHC/HTFC EU. EU will begin the consultation process with the New York State Department of Agriculture and Markets.
        - If the site is within 500 feet of an active farm operation and the project requires a local approval, an Agricultural Data Statement must be obtained as part of the local approval process.
        - 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 provided to RHC to begin the consultation process. Compliance language for the Checklist will be subsequently provided.

Local Agricultural District contact information and County Agricultural District Map Data can be accessed online, here:
https://cugir.library.cornell.edu/