



**EAST OF HUDSON
WATERSHED CORPORATION
2 Route 164
Patterson, NY 12563**

Standard Operating Procedure #3

TITLE: EOHWC SEQRA Review Procedures
Stormwater Retrofit Projects
Original Date: May 7, 2013

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Approved By: EOHWC Board of Directors on August 6, 2013

PURPOSE

The East of Hudson Watershed Corporation (EOHWC) is implementing stormwater retrofit projects (SRPs) to address phosphorus loads affecting water quality in the New York City reservoirs located in the New York City Watershed East of the Hudson River. The retrofit program is intended to support the participating municipalities' compliance with the State Pollution Discharge Elimination System General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4s).

This Standard Operating Procedure (SOP) establishes procedures for implementation by EOHWC of the State Environmental Quality Review Act (SEQRA) and its implementing regulations (6 NYCRR Part 617), which require that any agency undertaking, funding or approving an action consider potential environmental effects in its planning, review and decision making.

APPLICABILITY

EOHWC is considered a local authority under the Public Authorities Act as interpreted by the Authorities Budget Office and, as such, falls within the definition of "local agency" at 6 NYCRR § 617.2(v). The funding and undertaking of SRPs by EOHWC are considered "actions" as defined at 6 NYCRR § 617.2(b) requiring environmental review.

DEFINITIONS

- Coordinated Review - The process by which all involved agencies cooperate in one environmental review, with one agency becoming the lead agency. Coordinated review is required for all Type I actions.
- Draft Environmental Impact Statement (DEIS) - A draft of an Environmental Impact Statement circulated for public review.
- Determination of Significance - A written determination of whether a proposed action is likely to have a significant adverse impact upon the environment. A “negative declaration” is a determination that the proposed action will not result in any significant adverse environmental impacts, and a “positive declaration” is a determination that the proposed action may have a significant impact on the project and that a DEIS will be required.
- Environmental Impact Statement (EIS) - A written document prepared in accordance with 6 NYCRR 617.9 and 617.10 which documents the weighing of social, economic and environmental impacts.
- Executive Committee - EOHWC Executive Committee established by the Board of Directors.
- Executive Director - Executive Director of EOHWC.
- Final Environmental Impact Statement (FEIS) - The final version of the EIS that incorporates comments on the DEIS.
- Involved Agency – An agency that has jurisdiction by law to fund, approve or directly undertake a proposed action. The lead agency must be an involved agency.
- Installation Projects - Projects designed and constructed by EOHWC.
- Lead Agency - The involved agency in a coordinated review responsible for making the Determination of Significance.
- Reimbursement Projects - Projects designed and constructed by a municipality, the cost of which will be reimbursed by EOHWC.
- Type I Action - A proposed action that is more likely than not to require a DEIS.
- Type II Action - A proposed action that is exempt from review under SEQRA.

REQUIREMENTS

A. Preliminary Classification

1. The Executive Director shall make a preliminary classification of each proposed SRP as Type I, Type II or Unlisted (neither Type I nor Type II) and shall prepare the appropriate Environmental Assessment Form (“EAF”) if one has not already been prepared by another involved agency.

2. It is the policy of EOHWC to serve as lead agency in a coordinated review of all SRPs in which EOHWC is performing the installation, in accordance with the procedures set forth below.

3. It is the policy of EOHWC to have the municipality serve as lead agency in a coordinated review of all SRPs in which the municipality is performing the installation, in accordance with the procedures set forth below.

B. EOHWC Installation Projects

1. Type I or Unlisted SRPs

(a) If the involved agencies have not already consented to EOHWC serving as lead agency for the SRP, EOHWC shall send the involved and interested agencies the lead agency letter attached hereto as Exhibit “A,” enclosing the EAF. Type I actions require a Full EAF; Unlisted actions may use the Short EAF.

(b) If no agency has objected to the lead agency request within 30 days, or if all agencies have already consented, the Executive Committee shall, by resolution, classify the action as Type I or Unlisted, declare itself the lead agency in a coordinated review and make the determination of significance.

(c) The determination of significance resolution shall be distributed to all involved and interested agencies and a copy kept in the Board and SRP files accessible to the public. In Type I actions, the determination of significance must also be sent to the Environmental Notice Bulletin for publication.

2. Type II SRPs

If the Executive Director determines that an SRP is a Type II action because of inclusion in the DEC Type II list (6 NYCRR 617.5[c]) or the EOHWC Type II list, no further environmental review will be conducted by EOHWC. Note that the EOHWC Type II list can be used only if all other involved agencies for the SRP have adopted the EOHWC Type II list.

(a) DEC Type II List. If the Executive Director uses the DEC Type II list to classify the SRP as a Type II action, he shall send the following notice to all involved and interested agencies, including DEC and DEP:

This is to notify you that EOHWC, as a local agency subject to the State Environmental Quality Review Act ("SEQRA"), has determined that the above referenced stormwater retrofit project is a Type II action under 6 NYCRR 617.5(c)(__) of the DEC SEQRA regulations and no further review will be conducted.

(b) EOHWC Type II List Adopted. If the Executive Director uses EOHWC Type II list to classify the SRP as a Type II action, and the involved agencies for the SRP have all adopted the EOHWC Type II list, EOHWC shall send the following to any involved and interested agencies:

This is to notify you that EOHWC, as a local agency subject to the State Environmental Quality Review Act ("SEQRA"), has determined that the above referenced stormwater retrofit project is a Type II action under EOHWC's Type II list and that no further SEQRA review of the project by EOHWC is required. I enclose a copy of EOHWC's Type II list for your reference.

(c) EOHWC Type II List Not Adopted. EOHWC's Type II list is not binding on any other agency unless it has also adopted EOHWC Type II list. If the Executive Director wants the other involved agencies to classify the SRP as a Type II action, and the other agencies have not already adopted the EOHWC Type II list, the Executive Director shall send the EOHWC Type II list to the agencies and ask them to adopt the list and classify the action as Type II. In this event, EOHWC shall send the following notice to all involved and interested agencies, including DEC and DEP:

This is to notify you that EOHWC, as a local agency subject to the State Environmental Quality Review Act ("SEQRA"), has determined that the above referenced stormwater retrofit project is a Type II action under EOHWC's Type II list and that no further SEQRA review of the project by EOHWC is required. I enclose a copy of EOHWC's Type II list and ask that you adopt the same and classify the project as a Type II action so that we may move forward without any further SEQRA review.

(d) Type II Documentation. The Executive Director shall complete the documentation provided in Exhibit B identifying the reason under the Type II list that the SRP does not require SEQRA review. Copies of the documentation shall be kept with the Board of Directors and SRP files. The Executive Director shall maintain a list of agencies that have adopted EOHWC Type II list.

C. Reimbursement Projects

1. For reimbursement projects, EOHWC expects the municipality to be the lead agency, and EOHWC shall consent to such designation. If the municipality has not initiated SEQRA, and the Executive Director has classified the SRP as a Type I or Unlisted action, the Executive Director shall encourage the municipality to initiate the SEQRA process and to serve as lead agency. When the municipality has initiated SEQRA, EOHWC shall send the following note to the lead agency as early as possible in the review process:

It is our understanding that your board is undertaking the environmental review of the above referenced project. This is to advise that EOHWC is considered an involved agency under SEQRA because it will be funding the project. Please conduct a coordinated environmental review and include EOHWC in your distribution list as an involved agency. EOHWC does not object to your board serving as lead agency.

2. If the municipality has initiated SEQRA but has not yet made a determination of significance and the Executive Director, in consultation with counsel, believes the SRP is a Type II action, the Executive Director may send the notice under B(2)(a), (b) or (c), as appropriate.

TYPE II LISTS

The Executive Director is authorized to determine whether a particular SRP is a Type II action not requiring environmental review under SEQRA. The following two lists shall be considered in this determination.

A. DEC Type II List

This list of possibly applicable actions on the DEC Type II list is for convenience only. A complete list of DEC Type II actions is available at 6 NYCRR § 617.5.

- 617.5[c][1] - Maintenance or repair involving no substantial change in existing structure or facility;
- 617.5[c][2] - Replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site;
- 617.5[c][3] - Agricultural farm management practices;
- 617.5[c][6] - Maintenance of existing landscape or natural growth;

- 617.5[c][7] - Construction or expansion of a primary or accessory/appurtenant, nonresidential structure or facility involving less than 4,000 square feet of gross floor area; and
- 617.5[c][14] - Public or private best forest management practices on less than 10 acres of land.

B. EOHWC Type II List

The following list is adopted by the Board of Directors pursuant to the authority of 6 NYCRR §617.5(b), which provides that each agency may adopt its own list of Type II actions to supplement the DEC list. No agency is bound by an action on another agency's Type II list. To be used, this list must be adopted by all other involved agencies for a particular SRP.

- Construction or alteration of newly constructed stormwater ponds (micropool extended detention, wet, wet extended detention, multiple systems, pocket) of less than one acre in size;
- Construction or alteration of newly constructed stormwater wetlands (shallow, extended detention shallow, pond/wetland systems, pocket) of less than one-tenth acre in size;
- Construction or alteration of newly constructed infiltration practices (trenches, basins, dry wells) of less than one-tenth acre of surface disturbance;
- Construction or alteration of newly constructed filters (surface sand, underground sand, perimeter sand, organic, bioretention areas) of less than one-tenth acre surface disturbance;
- Construction or alteration of newly constructed open channels (dry swales and wet swales) not connected to any wetlands;
- Cleaning and improving existing stormwater collection ditches along roadways;
- Creation, alteration and maintenance of Green Infrastructure (GI) practices, as defined in the NYSDEC 2010 Stormwater Management Design Manual;
- Creation, alteration and maintenance of streambank/channel stabilization pursuant to DEC permit, where required;
- Creation, alteration, restoration, and maintenance of conveyance systems;
- Accepting an easement or license for access to an SRP;

- Purchase, acceptance or conveyance of real property for a project on this list or DEC's Type II list.
- Maintenance of any SRP;

EXHIBIT A
LEAD AGENCY LETTER

Re: [name and location of SRP]
Lead Agency Designation under SEQRA

Dear _____:

EOHWC is hereby notifying you that it will be undertaking the design, permitting, construction and funding of the above referenced stormwater retrofit project. This project is being undertaken to achieve compliance with the phosphorus reduction requirements of the Municipal Separate Storm Sewer Systems ("MS4") permit for municipalities east of the Hudson River in the New York City Watershed.

EOHWC has determined that the actions proposed are subject to the State Environmental Quality Review Act ("SEQRA"). EOHWC wishes to be the lead agency in a coordinated environmental review of the project and requests your agreement that EOHWC be designated the lead agency.

EOHWC wishes to expedite the determination of lead agency and has enclosed a self-addressed envelope for your prompt reply. If you agree that EOHWC be designated as lead agency, please sign the enclosed copy of this letter and return it to EOHWC as soon as possible. If your agency does not submit a written objection to EOHWC within 30 days of the mailing of this notification, EOHWC will assume the lead role for this project.

Enclosed please find a copy of the Environmental Assessment Form, a description of the project and a location map.

Very truly yours,

Rahul Verma, P.E., LEED AP
Executive Director

Enc.

The _____ agency agrees to the designation of EOHWC as lead agency for the above referenced project.

By: _____ Title: _____ Date: _____

EXHIBIT B
DOCUMENTATION OF TYPE II PROJECTS

This form must be completed if the Stormwater Retrofit Project under review does not require further SEQRA review pursuant to 6 NYCRR §617.5. It has been determined that the action:

Name and Project Number: _____
Location: _____
SRP: _____

is exempt from SEQRA review because the proposed action is a SEQRA Type II action that will not require further environmental review. This action has met the following NYSDEC or EOHWC Type II criteria:

Provide any additional explanation if needed:

Rahul Verma, P.E. LEED AP
Executive Director, EOHWC

Date: _____