



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

Standard Operating Procedure #3

TITLE: SEQRA Review of Stormwater Retrofit Projects

Original Date: May 7, 2013

Revision Number/Date: Not Applicable

Approved By: EOHWC Board of Directors on March 7, 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) has been developed to describe how 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 environmental factors in its planning, review, and decision making, will be implemented by EOHWC.

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.

The SEQRA regulations permit an agency to adopt procedures to implement the environmental review process. EOHWC has adopted this SOP for SEQRA reviews to ensure that all SRPs funded or undertaken by EOHWC receive a proper environmental review and to establish specific evaluation criteria.

DEFINITIONS

- **Board of Directors** - The EOHWC Board of Directors.
- **Coordinated Review** - A process that establishes a lead agency when more than one agency is involved in the review to ensure the satisfactory completion of the SEQRA process. A coordinated review is required for Type I actions and is optional for unlisted actions.
- **Draft Environmental Impact Statement (DEIS)** - A draft of an Environmental Impact Statement circulated for public review.
- **EOHWC** - East of Hudson Watershed Corporation
- **Executive Committee** - The EOHWC Executive Committee, as established by the EOHWC Board of Directors.
- **Executive Director**- Executive Director of the East of Hudson Watershed Corporation
- **Final Environmental Impact Statement (FEIS)** - The final version of the Environmental Impact Statement that incorporates comments on the Draft Environmental Impact Statement.
- **Standard Operating Procedure (SOP)** - The procedure defined in this document to establish the EOHWC procedure to comply with the SEQRA requirements.
- **Stormwater Retrofit Project (SRP)** – A project funded and/or undertaken by EOHWC to facilitate compliance with the enhanced phosphorus removal requirements of the NYSDEC MS4 General Permit.

REQUIREMENTS

1. EOHWC Installation Projects

In the interest of conducting an efficient environmental review, EOHWC will seek to serve as lead agency on all projects EOHWC undertakes or funds. In the early stages of project review, if the involved municipality has not already done so, EOHWC will complete the appropriate Environmental Assessment Form (EAF) for the proposed SRP. Type I and Unlisted actions will require completion of the Full Environmental Assessment Form (FEAF). Type II actions will not require completion of an EAF.

A. Type I or Unlisted SRPs

If the Executive Director determines that an SRP is Type I or unlisted, EOHWC will send all involved and interested agencies, including DEC, DEP and the

involved municipality(ies), the lead agency letter attached hereto as Exhibit “A,” enclosing the EAF. After 30 days has elapsed and if no agency has objected, the Executive Committee shall, by resolution, classify the action, declare itself the lead agency in a coordinated review and make the significance determination. The significance determination resolution will be distributed to all involved and interested agencies and a copy kept in the Board and SRP files.

B. Type II SRPs

If the EOHWC Executive Director determines that an SRP is Type II, either because of inclusion in the DEC Type II list or the EOHWC Type II list, no further environmental review is needed. EOHWC will 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 and that no further review of the project is required under SEQRA.

The Executive Director will complete the documentation provided in Exhibit C identifying that the project under review does not require additional SEQRA review. Copies of the evaluation and documentation will be kept with EOHWC Board and SRP files.

2. Reimbursement Projects

If the municipality has not initiated SEQRA, EOHWC will encourage it to do so and ask the municipality to serve as lead agency. When the municipality has initiated SEQRA, EOHWC will request to be included in all circulations as an involved agency. EOHWC will 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.

On projects where EOHWC is not lead agency and where a Positive Declaration has been made, EOHWC, as an involved agency, may supplement a municipality’s SEQRA Findings Statement by preparing its own findings statement.

If the municipality has initiated SEQRA and has not yet made a significance determination under SEQRA and the Executive Director, in consultation with counsel, believes the SRP is a Type II action under either DEC’s list or EOHWC’s list, EOHWC shall send the following note to the lead agency:

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. We have determined that the referenced project is a Type II project under SEQRA and does not require any further review. Please contact us if you have any questions.

3. Type II Projects Requiring No Further Environmental Review

The Executive Director is authorized to determine whether a particular SRP is a Type II action not requiring further environmental review under SEQRA. The following two lists shall be considered in this determination. In addition, the Executive Director shall complete the questionnaire in Exhibit B and document his determination with the form in Exhibit C.

A. Applicable sections of DEC Type II List at 6 NYCRR §617.5

- Maintenance or repair involving no substantial changes in existing structure or facility (6 NYCRR §617.5[c][1]);
- Replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site (6 NYCRR §617.5[c][2]);
- Agricultural farm management practices (6 NYCRR §617.5[c][3]);
- Maintenance of existing landscape or natural growth (6 NYCRR §617.5[c][6]);
- Construction or expansion of a primary or accessory/appurtenant, nonresidential structure or facility involving less than 4,000 square feet of gross floor area (6 NYCRR §617.5[c][7]); and
- Public or private best forest management (silvicultural) practices on less than 10 acres of land (6 NYCRR §617.5[c][14]).

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. As lead agency, EOHWC will verify if an action is considered a Type II action as determined by the criteria outlined in Exhibit B and documented in Exhibit C.

- Stormwater Ponds (micropool extended detention, wet, wet extended detention, multiple systems, pocket, etc.);
- Stormwater Wetlands (shallow, extended detention shallow, pond/wetland systems, pocket, etc.);
- Infiltration practice (trenches, basins, dry wells, etc.);

- Filters (surface sand, underground sand, perimeter sand, organic, bioretention areas, etc.);
- Open Channels (dry swales and wet swales);
- Proprietary practices, as approved by the NYSDEC;
- Cleaning and improving stormwater collection ditches along roadways;
- Green Infrastructure (GI) practices, as defined in the NYSDEC 2010 Stormwater Management Design Manual;
- Streambank/channel stabilization; and
- Conveyance system restoration, renovation, and/or upgrades.

4. Overview

A summary of the SEQRA review process is set forth in Exhibit D.

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, and 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 find a copy of the Environmental Assessment Form and a description of the project and 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

EOHWC TYPE II ACTION EVALUATION CRITERIA

SRP Type II Evaluation Criteria

Criteria - Please answer Yes, No, or Unknown as applicable. Please refer to the referenced section of SEQRA for further information for each item.

If YES to any, state: "Further analysis is required before determining whether this project will have a significant effect on the environment. An Environmental Assessment Form must be completed and the significance of the effect of the project on the environment must be assessed."

If UNKNOWN to any, state: "Further analysis is required before determining the SEQR classification for this project."

If NO to all, state: "No further analysis required as this project meets the criteria established for a Type II action "

- a. Will the SRP require clear cutting of a forested area? Yes ___ No ___
 - b. Will the SRP require controlled burning of vegetation? Yes ___ No ___
 - c. Will the SRP physically alter more than 1 acre? Yes ___ No ___
- d. Will the SRP physically alter more than 2.5 acres of publicly owned or operated parkland, recreation areas, or designated open space? Yes ___ No ___
- e. Will the SRP have an effect on any district, site, building, structure, or object that is listed, or may be eligible for listing, on the National Register of Historic Places, or proposed by the New York State Board on Historic Preservation for a recommendation to the State Historic Preservation Officer for nomination for inclusion in the National Register or that is listed on the State Register of Historic Places? Yes ___ No ___
- f. Will the SRP cause more than minor alteration of, or adverse effect upon, any property, protected area, or natural or man-made resource of national, State or local significance including:
 - i) DEC jurisdictional wetlands and buffer areas?
 - ii) Floodplain areas?
 - iii) DEC classified streams?
 - iv) Prime or unique agricultural land?
 - v) Agricultural districts, when more than one acre of such district may be affected?
 - vi) Water supply sources?
 - vii) Designated wild, scenic and recreational rivers?
 - viii) Unique ecological, natural wooded or scenic areas?
 - ix) Rare, endangered or threatened species?

EXHIBIT B

EOHWC TYPE II ACTION EVALUATION CRITERIA

x) Any area officially designated as a critical environmental area?
Yes ___ No ___

EXHIBIT C
DOCUMENTATION OF PROJECTS THAT DO NOT REQUIRE
FURTHER SEQRA REVIEW

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: _____

EXHIBIT D
EOHWC SEQRA PROCESS

SEQRA PROCESS

1. The EOHWC will declare its intent to be Lead Agency for all SRP projects unless a municipality is the lead agency as part of a reimbursement project. If the municipality objects, EOHWC will defer to the involved municipality.
2. The EOHWC will determine the Type action the SRP is (I, II or Unlisted) by using the SRP Type II Evaluation Criteria provided in Exhibit B and those defined in the EOHWC SOP and 6 NYCRR §617.4 and §617.5.
3. If the EOHWC as the lead agency determines the SRP is a Type II action then:
 - a. No further action required under SEQRA.
 - b. The EOHWC will forward the required notice (included in the SOQ) to all involved and interested agencies.
4. If the EOHWC as the lead agency determines the SRP is a Type I or Unlisted action then:
 - a. The EOHWC will forward the letter to provided in Exhibit A to all involved and interested agencies
 - b. Assuming no one objects, after 30 days the Executive Committee shall, by resolution, classify the action as either Type I or Unlisted, declare itself the lead agency in a coordinated review and make the significance determination.
5. The EOHWC as Lead Agency must determine the significance of any Type I or unlisted action in writing.
 - a. To require an EIS for a proposed action, the Lead Agency must determine that the action may include the potential for at least one significant adverse environmental impact.
 - b. To determine that an EIS will not be required for an action, the Lead Agency must determine either that there will be no adverse environmental impacts or that the identified adverse environmental impacts will not be significant.
6. For all Type I and unlisted actions, the lead agency making a determination of significance must:
 - a. Consider the action as defined in 6 NYCRR §617.2(b) and 6 NYCRR §617.3(g);
 - b. Review the Full Environmental Assessment Form (FEAF), the criteria and any other supporting information to identify the relevant areas of environmental concern;
 - c. Thoroughly analyze the identified relevant areas of environmental concern to determine if the action may have a significant adverse impact on the environment; and
 - d. Set forth its determination of significance in a written form containing a reasoned elaboration and providing reference to any supporting documentation.

7. Criteria for determining significance:
- a. To determine whether a proposed Type I or unlisted action may have a significant adverse impact on the environment, the impacts that may be reasonably expected to result from the proposed action must be compared against the criteria outlined as follows:
 - (i) a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels; a substantial increase in solid waste production; a substantial increase in potential for erosion, flooding, leaching or drainage problems;
 - (ii) the removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species; or other significant adverse impacts to natural resources;
 - (iii) the impairment of the environmental characteristics of a critical environmental area as designated pursuant to 6 NYCRR §617.14(g);
 - (iv) the creation of a material conflict with a community's current plans or goals as officially approved or adopted;
 - (v) the impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character;
 - (vi) a major change in the use of either the quantity or type of energy;
 - (vii) the creation of a hazard to human health;
 - (viii) a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses;
 - (ix) the encouraging or attracting of a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the action;
 - (x) the creation of a material demand for other actions that would result in one of the above consequences;
 - (xi) changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment; or
 - (xii) two or more related actions undertaken, funded or approved by an agency, none of which has or would have a significant impact on the environment, but when considered cumulatively would meet one or more of the criteria in this Exhibit.
 - b. For the purpose of determining whether an action may cause one of the consequences listed in this Exhibit, the Lead Agency must consider reasonably related long-term, short-term, direct, indirect and cumulative impacts, including other simultaneous or subsequent actions which are:

- (i) included in any long-range plan of which the action under consideration is a part;
 - (ii) likely to be undertaken as a result thereof; or
 - (iii) dependent thereon.
- c. The significance of a likely consequence (i.e., whether it is material, substantial, large or important) should be assessed in connection with:
 - (i) its setting (e.g., urban or rural);
 - (ii) its probability of occurrence;
 - (iii) its duration;
 - (iv) its irreversibility;
 - (v) its geographic scope;
 - (vi) its magnitude; and
 - (vii) the number of people affected
- 8. For Unlisted actions the EOHWC may prepare a conditioned negative declaration (CND) provided that it:
 - a. has completed a full EAF;
 - b. has completed a coordinated review
 - c. has imposed SEQR conditions that have mitigated all significant environmental impacts and are supported by the full EAF and any other documentation; and
 - d. has published a notice of a CND in the ENB and a minimum 30-day public comment period has been provided.
- 9. The EOHWC will develop a significance determination resolution which will be distributed to all involved and interested agencies and a copy kept in the Board and SRP files.
- 10. The EOHWC will develop a Scoping document and/or DEIS and provide to all involved agencies for coordinated review. Once the DEIS is accepted as complete, it is advertised for public comment. All public comments must be addressed and, when satisfactory, the DEIS becomes a FEIS by incorporating comments on the DEIS.