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The purpose of this chapter is to define and identify dwelling units eligible to receive weatherization services in accordance with U.S. Department of Energy's (USDOE) Code of Regulations 10 CFR § 440.22 and Weatherization Policy Notices (WPN) 10-12, 10-17, 11-03, 11-4, and 11-9.

Any dwelling unit, property or building assisted with WAP funds must be qualified before any work is installed. Qualification includes documenting ownership, verifying that the building was not previously assisted with WAP funds, and, for multi-family buildings, establishing that the building meets the specific requirements established by rule for rental projects.

### **1. Eligible Dwelling Units**

#### **1.1. Single Family (1-4 dwelling units)**

Single-family dwelling unit is defined as a house or stationary mobile home whose occupants live together as a family or household and share all the facilities of the dwelling unit in common, particularly common access to their dwelling unit and a common kitchen.

#### **1.2. Rental Units/Multi-Family Buildings (5 or more)**

Weatherization Program Notice 22-5 released December 8, 2021 simplifies (and supersedes) procedures previously outlined in WPN 17-4, Multifamily Housing – Procedure for Certifying Income-Eligible HUD Assisted Buildings. There are generally three types of multifamily properties assisted by HUD: (1) housing owned and operated by HUD Public Housing Agencies (PHAs), (2) privately-owned multifamily buildings receiving project-based assistance, and (3) privately-owned multifamily buildings that house residents who receive tenant-based (housing voucher) assistance.

1. Housing owned and operated by PHAs shall be considered 100% income eligible. The PHAs deemed eligible and referenced can be found on the [HUD page](#). Completion of applications of tenants is not required, if the 50058/59 are provided by the authority. Personal identifiable information must be redacted prior to WAP agency receiving the 50058/59.
2. For privately owned multifamily buildings receiving project-based assistance, WAP agencies should refer to the [USDOE HUD Multi-Family lists](#) to determine the percentage of the units in each building that are income eligible.
3. Privately-owned multifamily buildings that house residents receiving tenant-based assistance, WAP agencies are required to determine the percentage of income eligible residences by contacting the building owner/manager to obtain Section 8

Housing Choice Voucher records (from HUD's Tenant Based Rental Assistance Program [TBRA]) or by individually verifying which residents hold such vouchers.

This certification process is not applicable to U.S. Department of Agriculture (USDA) and Low-Income Housing Tax Credit Properties (LIHTC). WAP agencies must follow standard procedures for verifying individual resident incomes for these properties.

Prior to weatherizing, an entire building of multi-family housing (including common area), a specific eligibility test will be applied:

- At a minimum, 66% of the **occupied** dwelling units must be eligible dwelling units in a building of five or more units.
- 50% of the **occupied** dwelling units must be eligible dwelling units in duplexes and four-unit buildings.
- A building containing rental dwelling units must be included on the most recent list posted by the USDOE of Assisted Housing and Public Housing buildings identified by HUD.
- When utilizing unoccupied units (vacant) to deem building eligible for weatherization, WAP agency must ensure that the unoccupied units will become eligible dwelling units within 180 days under a Federal, State or Local government program for rehabilitating the building or making similar improvements to the building. WAP agency is required to confirm that the unit(s) is (are) occupied by an eligible household (s) prior to including dwelling unit or entire project on invoice for State Quality Assurance inspection or payment.

WAP Agencies are required to obtain and execute New Jersey's current [Landlord/Tenant Weatherization Agreement Form Multi-Family Only](#) (5 units or more) which ensures that the rights of tenants as well as the weatherization investment in rental buildings are protected, and that the benefits of weatherization accrue to the low-income persons the program intends to serve. Signed copies of this document are provided to both the Tenant and the Landlord. The document is enforceable by the tenant(s). Copy of document must be maintained in building folder.

A single unit in multi-family buildings is not categorically excluded, however, weatherization of a single unit requires prior DOE approval (WPN 16-5). The following conditions must be met:

- The unit is self-contained, without sharing an attic or basement with adjacent units, and has its own individual heating and cooling systems,

- The unit has been audited with a current, approved energy audit tool and protocol that is able to adequately address a single unit within a larger structure, and
- The scope of work is specific to allowable measures within the eligible unit(s).

### 1.3. Groups, Shelters and Transitional Facilities

Group home or shelter means a structure containing more than one dwelling unit where the primary living quarters are a single-room or group of rooms and whose occupants share a common cooking area, dining facilities or have no cooking facilities whatsoever.

A shelter/transitional home is defined as a dwelling unit or units whose principal purpose is to house, on a temporary basis, individuals who may or may not be related to one another and who are not living in nursing homes, prisons, or similar institutional care facilities such as transitional homes for parolees if the facility is zoned as residential as demonstrated by a residential registration form issued by the respective municipality. It provides short-term supportive services housing to facilitate movement to independent living. If more than one family is receiving services in the same unit, then a Shelter License must be obtained from the New Jersey Department of Community Affairs.

A group home is defined as a single unit in which three or more people, not related by blood or marriage, reside and share eating facilities. In addition, a group home must have a clearly definable identity which distinguishes it from more informal, family-type settings. A group home may be either a temporary or a permanent residence.

If a building is a group home, transitional home, or shelter, a WAP Agency may classify the building as more than one dwelling unit. A dwelling unit within a group home, transitional home or shelter can be classified either by counting each single floor of the building or by calculating each 800 square feet of living space.

1. One application is needed for each unit. The unit number should be listed as the name of the income-eligible individual on the application. No individual should be identified on the application. The completion of the application is necessary to obtain the demographic data such as income for reporting purposes. In HESWAP, the unit # should also be inputted as client name.
2. Copy of current Operating License issued by the Department of Community Affairs must be maintained in building folder, if applicable.

The Department recognizes that individual resident income eligibility is not always practical due to a high turnover of residents in the facilities. In this event the operators of eligible facilities must complete the [Application for Shelters, Group Homes and Transitional Facilities](#) and include the following documentation:

1. A signed statement from the facility operator attesting that the individuals/households residing in the facility are income eligible.
2. A copy of the organization's income guidelines or a copy of the organization's mission statement in lieu of individual resident income verification.

### **1.4. Religious Buildings**

Dwelling units owned or operated by (or on behalf of) Religious Groups or Organizations may be weatherized under the provisions of NJ WAP only where the following conditions are met:

- a. The owner and/or owner's representative must sign assurances guaranteeing that in units weatherized, the owners and/or operators shall not
  - i. conduct religious activities
  - ii. display religious symbols (see note)
  - iii. Require or encourage tenants to engage in religious activities, services, etc.
- b. In renting the units weatherized, the owners and/or operators shall not discriminate because of any tenants/applicant's religious affiliation or lack thereof, or because of any tenant's/applicant's refusal to participate in any religious activity.

Weatherization work shall not be performed in rooms or areas of the building used for religious activities or services.

Note: This does not preclude tenants from displaying religious symbols or undertaking religious activities when such items represent the tenant's own volition.

### **1.5 Condominiums**

Condominiums that have own entrance and heat system, such as garden style condominium, can be weatherized.

Condominiums in multi-dwelling/high rises must meet the 66% eligibility per building for weatherization.

A single condominium in a high-rise building cannot be weatherized.

## **2. Non-Eligible Dwelling Units**

The following dwellings are not eligible entities for weatherization:

- a. Non-traditional multifamily buildings: Commercial, non-qualifying institutional and non-qualifying religious buildings (including caretaker housing [e.g., housemother in college

dormitories live in household at a business such as a bed and breakfast] dormitories, live-bed-and-breakfast], nursing homes, religious housing [e.g., convents, monasteries, nunneries, and parsonage] and mixed-use spaces [church basement used for gym during the week but shelter on the weekend]).

- b. Buildings Scheduled for Demolition: No unit shall be weatherized which is designated for acquisition or clearance by a Federal, State or Local program within twelve (12) months from the date that weatherization of such a unit would be scheduled to be completed.

In addition, WAP Agencies should also strive to avoid weatherization of buildings which are scheduled for private sector clearance.

Building owners must attest that the building is not scheduled for demolition by signing the [“Owner’s Permission to Weatherize”](#) form found in the Appendix.

- c. Properties in Foreclosures
- d. Properties Listed for Sale
- e. Non-stationary campers and trailers are not eligible for weatherization due to a lack of mailing address associated with the applicant. Post Office boxes do not meet the requirement of a valid address.
- f. Building structure is not safe or structurally sound.
- g. Sewage system has failed and requires correction prior to installation of weatherization measures.
- h. Buildings or homes with other sanitary factors are present that prohibit the timely and efficient installation of weatherization measures.
- i. Any dwelling weatherized less than 15 years ago, unless the measures were damaged by an act of God, i.e., hurricane, storm, flood, etc. (only if USDOE funds are utilized – please see Chapter 7, Section 3.14 Re-weatherization.)
- j. Common areas in buildings having a separate envelope not thermally connected to the qualified building, even if existing only for the use of the tenants of the qualified building, may not receive services paid with WAP funding.
- k. If the home/building has a lien (property tax, water, or sewer) and a permit is required, i.e., heating system, then the unit cannot be weatherized.

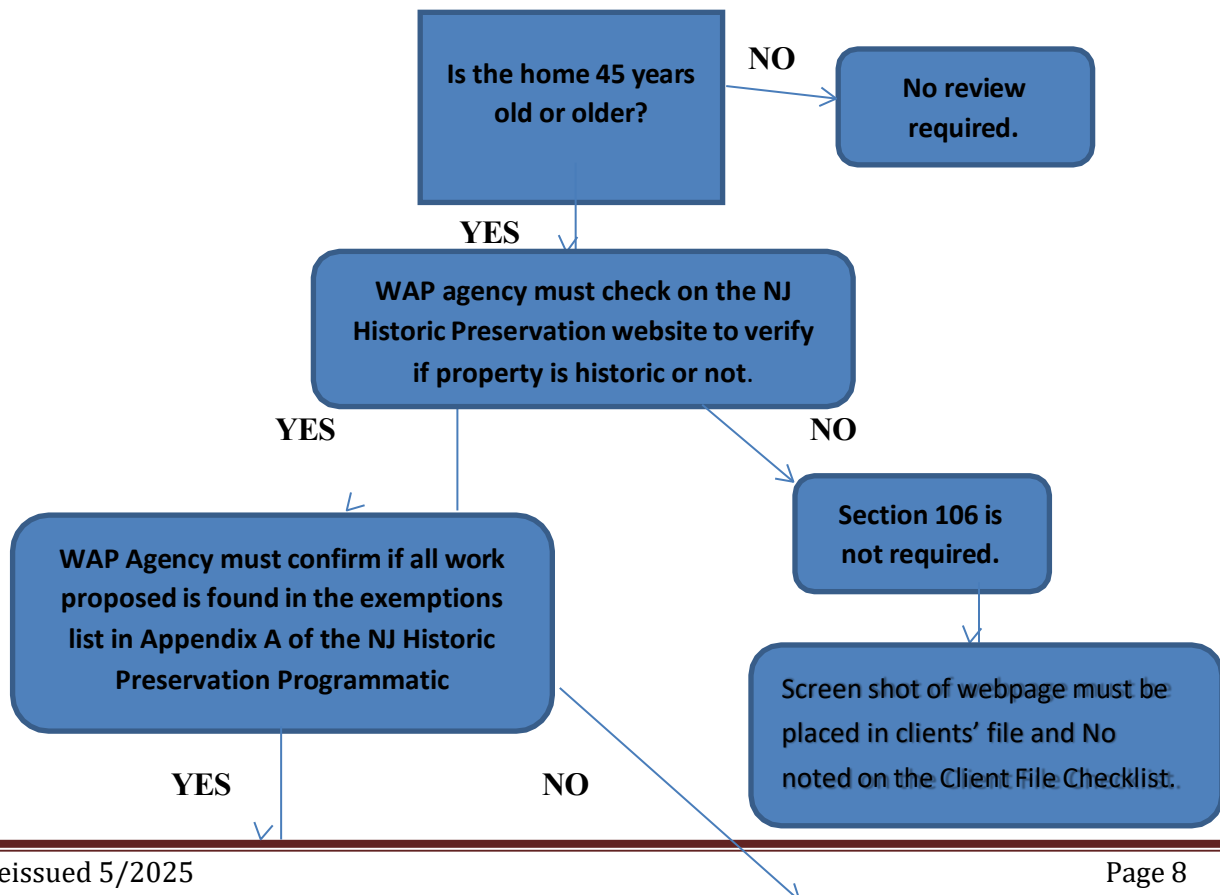
### 3. Historic Preservation

Prior to weatherization, WAP Agencies are required to comply with Section 106 of the Protection of Historic Properties (36CFR Part 800) which can be found at [An Introduction to Section 106 | Advisory Council on Historic Preservation](#). Section 106 of the National Historic Preservation Act of 1966 (NHPA) requires Federal, state, and local agencies to consider the effects of their undertakings on historic properties. Section 106 applies to historic properties or sites that are listed on or eligible for listing on the National Register of Historic Places.

The historic preservation review process mandated by Section 106 is outlined in regulations issued by ACHP. Revised regulations, "[Protecting Historic Properties | Advisory Council on Historic Preservation](#)" (36 CFR Part 800), became effective August 5, 2004.

WAP agency must verify if the property is historic through the Statewide Historic Preservation website at [https://www.nj.gov/dep/hpo/1identify/nrsr\\_lists.htm](https://www.nj.gov/dep/hpo/1identify/nrsr_lists.htm) and with the local Historic Preservation Office. A screen shot of the page noting historic or not found must be placed in the client file or confirmation from the local Historic Preservation Office. If property is historic, then WAP Agency must confirm if all work proposed is found in the exemptions list in Appendix A of the NJ Historic Preservation Programmatic Agreement.

#### *Historic Preservation Workflow Process:*





**Document all exempted work in the project file and report to OLIEC for end year reporting to USDOE.**

**If some or all work proposed is not on the exemption list, approval is required from SHPO for any non-exempt item.**

**Send SHPO the required Section 106 submittal packet, which includes at a minimum a cover letter, scope of work, location map and photographs. All SHPO communication must be file in project files and copy provided to OLIEC for reporting purposes to USDOE.**

**The Programmatic Agreement and protocols for weatherization of historic properties can be found in the Additional Resources Section.**

#### **4. Proof of Ownership**

Proof of ownership of the dwelling unit is required prior to assistance being rendered. Acceptable forms of documentation demonstrating proof of ownership are as follows:

- Deed/Title to the Property
- Mortgage Statement
- Homeowner's Insurance
- Written verification from Assessor's Office
- Property Tax Bill
- Verification of a Life Estate

**Any of the above documents are acceptable to verify proof of ownership. Please note that a printout copy from a database is not acceptable.**

#### **5. Landlord Contributions**

WAP Agencies are advised that all landlords not income-eligible for weatherization services are required to contribute funds towards the cost of installing energy conservation measures in their buildings.

In accordance with 10 C.F.R. § 440.22 (d), WAP Agencies may require leveraging of landlord contributions, when feasible, from the owners of such buildings. Landlord contributions shall not be reported as program income nor treated as appropriated funds. The funds contributed

by the landlord shall be expended in accordance with the agreement between the landlord and the WAP Agency.

This policy permits the prioritization of multi-family dwellings for which the WAP Agency receives a landlord contribution and requires building owners to make code and safety improvements prior to receiving weatherization services.

There is a mandatory contribution requirement for all heating system upgrades of 50% of the total cost. WAP Agencies may expend up to the maximum per unit expenditure limit, or 50% of the total cost, whichever is less. Any additional cost must be incurred by the landlord. WAP Agencies are encouraged to request a landlord contribution for shell weatherization, or energy conservation measures related to the building envelope.

Leveraged funds may be expended on weatherization measures or related issues. WAP Agencies should not weatherize any rental units that have health and safety issues that must be addressed by the landlord, until those problems are resolved. Obvious code violations such as exposed electrical wires, water or sewage leaks in basements, asbestos contamination, etc. cannot be charged as energy-related issues, but the agency should still require the landlord to correct these problems as a pre-condition for weatherization.

The cost for the correction of non-energy related issues should not be considered a part of the contribution required for weatherization, since it cannot be reported to USDOE as leveraged funds.

Contributions cannot be requested from income-eligible homeowners. Buildings managed or owned by non-profits organizations are exempt upon proof of IRS 501(c)(3). If the unit requires capital intensive measures that will exceed the per unit maximum expenditure limit, then the WAP Agency must request a waiver if required to provide effective weatherization.

Landlord contributions are not program income. If the WAP Agency uses crew labor instead of contractors, then the WAP Agency may use a portion of the landlord contribution to cover the cost of crew labor for work on the landlord's building(s) only.

Landlord contributions must be expended in the same percentages as regular weatherization grant funds. The current policy is a minimum of 30% for materials and a maximum of 70% for program support.

### **5.1 Escrow Accounts**

All funds received from landlords for weatherization in multi-family dwellings must be deposited in an escrow account and handled according to the terms outlined in the Escrow Agreement. The agreement must be signed by the owner and the WAP Agency. All funds contributed by a landlord must be expended in this building(s) and no other. Any funds remaining after work is completed must be returned to the landlord or used for additional measures if approved by the owner.

## 5.2 Waiver Eligibility and Requests

On a case-by-case basis, WAP Agencies may request a waiver from this requirement if the following factors exist:

1. The landlord owns one rental property with no more than two dwelling units.
2. The landlord has submitted income documentation in accordance with program income guidelines. Based on the Net Rental Calculation Sheet found in Appendix, adjusted income cannot exceed 200% of poverty.

If a landlord is not eligible for a waiver, and refuses to contribute towards the cost of weatherization, the WAP Agency may de-prioritize the unit(s) and serve other units for which they have received contributions. Units that are eligible for the program must be served, however, landlord contributions must be considered when the scope of work to be performed is determined.

## 6. Deferral Policy

WAP Agency must postpone work when problems occur that cannot be remedied within the scope of allowable measures identified in the NJ WAP State Plan or other available grantee and grant funds. Building rehabilitation and hazard remediation work are beyond the scope of WAP.

Some reasons for deferral can include:

- The necessary corrective work is beyond the scope of the NJ WAP State Plan.
- Illegal activities are being conducted in the dwelling unit.
- The client is uncooperative, abusive, or threatening to the crew, sub-contractors, auditors, inspectors, or others who must work on or visit the house.
- Hoarding
- Animal waste
- Unsanitary conditions, infestations, etc.

Additional considerations that may lead to deferral shall include other good cause which includes any condition which may endanger the health and/or safety of the occupant, work crew, or subcontractor as determined by the DCA at its sole discretion.

Clients must be notified in writing within 7 business days of the site visit wherein a determination was made to defer the project. The notification form can be found at:

<http://www.nj.gov/dca/divisions/dhcr/offices/wap.html> and shall include reason(s) for deferral, any testing results, and appeal rights. WAP Agencies are expected to make reasonable efforts on behalf of their clients to find alternative assistance when USDOE funds are unavailable to address conditions that lead to deferral. When possible, the notice shall include a list of potential agencies with funding designed to address the specific issue which precludes a client from participating.

WAP Agency must provide photographic documentation in the client file for State Monitor Review. A site visit may be required.

When a unit is deferred, WAP agency can submit the unit for review and consideration for possible weatherization through the WAP and Comfort Partners Partnership. Chapter 9 in the NJWAP Policy Manual is dedicated to the Memorandum of Understanding (MOU) and partnership workflow process with Comfort Partners. WAP sub-grantees will seek a possible joint audit with Comfort Partners. If the unit does not meet the eligibility criteria for the Partnership Program, then the house would be deferred. The joint venture is limited to single-family owner-occupied households with natural gas or electricity utilities.