**Determination of Categorical Exclusion (subject to Section 58.5)**

**Determination of activities per 24 CFR 58.35(a)**

|  |  |
| --- | --- |
| Project Names(s) and Grant Number(s): Address:Project Description, including all contemplated actions which logically are either geographically or functionally part of the project: Estimated cost: $  Funding Source: ICDBG | |
|  | **The project falls into the category below, which is listed at 24 CFR 58.35(a) as a Categorically Excluded activity subject to Section 58.5.** |
|  | 1. Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are already in place and will be retained in the same use without change in size or capacity for more than 20 percent. Examples:  * Replacement of water or sewer lines * Reconstruction of curbs and sidewalks * Repaving of streets |
|  | 1. Special projects directed toward the removal of material and architectural barriers that restrict the mobility of and accessibility to the elderly and handicapped persons. |
|  | 1. Rehabilitation of buildings and improvements under the following conditions 2. In the case of a building for residential use (with one to four units), the density is not increased beyond four units, the land use is not changed. 3. In the case of multifamily residential buildings: 4. Unit density is not changed more than 20% 5. The project does not involve changes in land use from residential to non-residential; and 6. The estimated cost of rehabilitation is less than 75% of the total estimated cost of replacement after rehabilitation. 7. In the case of non-residential structures, including commercial, industrial, and public buildings: 8. The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and 9. The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another. |
|  | 1. An individual action 2. Up to four dwelling units where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between; or 3. A project of five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site. |
|  | 1. Acquisition (including leasing) or disposition of an existing structure or acquisition (including leasing) of vacant land provided that the structure or land acquired or disposed of will be retained for the same use; |
|  | 1. Combinations of the above activities |

|  |
| --- |
| The determination of the category listed above is supported by the following information (explain how you determined that the project satisfied the condition of the category you checked above and document as appropriate): |
| **You must complete the compliance checklist for 24 CFR 58.6 and the Statutory Worksheet on the following pages.** |

**Compliance Checklist for the “Other Requirements” in 24 CFR 58.6**

|  |
| --- |
| Project Name: |

**Section 1. Flood Disaster Protection Act:** <https://msc.fema.gov/portal/home>

|  |  |  |
| --- | --- | --- |
| Are funds for acquisition (including equipment) or construction (including repair and rehabilitation) purposes? | Yes  Continue | No  Proceed to Section 2-Act does not apply |
| Is the Activity in an area identified as having special flood hazards (SFHA)?  Identify FEMA flood map used to make this determination:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Community Name and Number  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Map panel number and date | Yes  Document and Continue | No  Document and Proceed to Section 2-Act does not apply |
| Is the Community participating in the National Insurance Program (or has less than one year passed since FEMA notification of Special Flood Hazards)? | Yes-Document and follow instructions below. | No-**Federal Assistance may not be used for this project.** |
| Flood Insurance under the National Flood Insurance Program must be obtained and maintained for the economic life of the project, in the amount of the total project cost. A copy of the flood insurance policy declaration must be kept on file. | | |

Section 2. Airport Runway Clear Zones (Civil) and Accident Potential Zones (Military)

|  |  |  |
| --- | --- | --- |
| Does the project involve HUD assistance, subsidy or insurance for the purchase or sale of an existing property? | Yes  Continue | No-Proceed to Section 3-regulation does not apply. |
| Is the project located within 2,500 feet of a civil airport or 15,000 feet of a military airfield? | Yes  Continue | No-Document and proceed to Section 3-regulation does not apply. |
| Is the project located within an FAA-designated civilian airport Runway Clear Zone (RCA) or Runway Protection Zone, or within the military Airfield Clear Zone (CZ) or Accident Potential Zone/Approach Protection Zone (APZ), based upon information from the airport or military airfield administrator identifying the boundaries of such zones? | Yes  Continue | No-Document and proceed to Section 3-regulation does not apply. |
| Comply with 24 CFR Part 51, Subpart D. This may include providing a written notice to a prospective buyer or leaser of the potential hazards from airplane accidents and the potential that an airfield operator may wish to purchase the property. Maintain copies of the signed notice. For properties located in a military clear zone, make and document a determination of whether the use of the property is consistent with DOD guidelines. Notice Sample: www.hud.gov/offices/cpd | | |

**Section 3. Coastal Barrier Resources Act**

|  |
| --- |
| Section 58.6 also requires compliance with the Coastal Barrier Resources Act. There are no Coastal Barrier Resource Areas in Washington, Oregon, Alaska, or Idaho. Therefore, the Act does not apply. |

**STATUTORY WORKSHEET**

Use this worksheet only for projects which are Categorically Excluded per 24 CFR Section 58.35(a).

**PROJECT NAME and Grant Number**:

**Compliance documentation must contain verifiable source documents and relevant base data.**

**Compliance Factors:**

|  |  |  |
| --- | --- | --- |
| Statutes, Executive Orders, and  Regulations listed at 24 CFR §58.5 | Status  A/B | Compliance Documentation |
| Historic Preservation  [36 CFR Part 800] |  |  |
| Floodplain Management  [24 CFR 55, Executive Order 11988] |  |  |
| Wetland Protection  [Executive Order 11990] |  |  |
| Coastal Zone Management Act  [Sections 307(c), (d)] | A | There are no Coastal Zones in Idaho. Therefore, the Act does not apply. |
| Sole Source Aquifers  [40 CFR 149] |  |  |
| Endangered Species Act  [50 CFR 402] |  |  |
| Wild and Scenic Rivers Act  [Sections 7(b), and (c)] |  |  |
| Clean Air Act  [Sections 176(c), (d), and 40 CFR 6, 51, 93] |  |  |
| Farmland Protection Policy Act  [7 CFR 658] |  |  |
| Environmental Justice  [Executive Order 12898] |  |  |
| **HUD ENVIRONMENTAL STANDARDS** |  |  |
| Noise Abatement and Control  [24 CFR 51B] |  |  |
| Explosive and Flammable Operations  [24 CFR 51C] |  |  |
| Toxic Chemicals and Radioactive Materials  [24 CFR 58.5(i)(2)] |  |  |
| Airport Clear Zones and Accident Potential Zones [24 CFR 51D] |  |  |

**DETERMINATION:**

This project converts to Exempt, per Section 58.34(a)(12), because it does not require any mitigation for compliance with any listed statutes or authorities, nor requires any formal permit or license (Status "A" has been determined in the status column for all authorities); **This** (now) EXEMPT project may now be initiated; OR

This project cannot convert to Exempt because one or more statutes/authorities require consultation or mitigation. Complete consultation/mitigation requirements, publish NOI/RROF and obtain Authority to Use Grant Funds (HUD 7015.16) per Section 58.70 and 58.71 before initiating the project; OR

The unusual circumstances of this project may result in a significant environmental impact. This project requires preparation of an Environmental Assessment (EA). Prepare the EA according to 24 CFR Part 58 Subpart E.

**CERTIFICATION:**

RESPONSIBLE ENTITY SIGNATURE:

NAME, TITLE: DATE:

**INSTRUCTIONS for completing the STATUTORY WORKSHEET**

*(attach to completed Statutory Worksheet)*

***\*\*\*\*SAMPLE STATUTORY WORKSHEET ON PAGE 103\*\*\*\****

For HUD funded projects that are categorically excluded per 24 CFR §58.35(a), the Responsible Entity (**RE**) must determine whether the proposal achieves compliance with each applicable statute, Executive Order or regulation with or without requiring formal consultation, mitigation, permits or having adverse effects on the resources protected by the statute. These instructions are a brief description of the essential findings needed to establish compliance. Please see Northwest Region Checklist Tools for further guidance on these laws and authorities. These instructions are not intended to replace the applicable regulations and applicable regulations take precedence.

The Preparer of the Statutory Worksheet must DOCUMENT AND ATTACH THE SOURCES OF THE DETERMINATION.

**Record the finding status on the STATUTORY WORKSHEET for each listed Federal statute, regulation, authority as follows:**

**Status “A”** applies when compliance with the authority is achieved without adverse effects on the protected resource, without necessary mitigation or attenuation AND when no formal consultation, permit or agreement is required to establish compliance. In these situations, enter **“A”** in the STATUTORY WORKSHEET status column.

**Status “B”** applies when project compliance with the authority requires formal consultation, a permit or agreement, OR when the proposal may have an adverse effect on the protected resources. Part B summarizes what additional steps or formal procedures must be completed prior to submitting a Request for Release of Funds (RROF) to HUD or to the State. Evidence of completion and implementation of the required procedures or mitigation must be retained in the project Environmental Review Record (ERR).

**Historic Properties** (including archeology): **A)** The RE and SHPO agree that there are No Historic Properties Affected per 36 CFR 800.4(d)(1) **OR** SHPO has not objected within 30 days to such a fully documented determination. **B)** The proposal will have an effect on historic properties per §800.4(d)(2). This includes “no adverse effect” on historic properties §800.5 when additional investigations or consultation is required.

**Floodplain Management**: **A)** The project does not require compliance with 8-step decision-making at 24 CFR Part 55. **B)** The project requires compliance with the 8-step decision-making process at 24 CFR Part 55.20.

**Wetlands Protection: A)** The project does not require compliance with the 8-step decision-making process in Executive Order 11990. **B)** The project requires compliance with the 8-step decision-making process in Executive Order 11990.

**Coastal Zone Management: A)** The project is not located in the coastal zone, **OR** the project does not include new construction or major rehabilitation of existing structures, **OR** the State Department of Ecology has accepted the RE’s certification that the project is consistent with the Coastal Zone Management Program. **B)** State Department of Ecology does not accept consistency determination and/or requires mitigation.

**Sole Source Aquifers (Safe Drinking Water Act): A)** The project is not located within a U.S. EPA-designated sole source aquifer watershed area (including stream flow source areas), **OR** the project need not be referred to EPA for evaluation according to an EPA approved MOU or checklist, **OR** EPA has concurred that the project is “not likely to affect Sole Source Aquifer quality” in an informal consultation. **B)** EPA does not concur with “not likely to affect Sole Source Aquifer quality’ determination and/or requires mitigation.

**Endangered Species: A)** The RE determines that the proposal will have “no effect” on federally protected (listed or proposed) Threatened or Endangered Species **B)** US Fish and Wildlife Service (USFWS) and/or National Marine Fisheries Service (NMFS) concur the project “is not likely to adversely affect” any federally protected (listed or proposed) Threatened or Endangered Species (i.e., plants or animals, fish, or invertebrates), nor adversely modify critical habitats **OR** USFWS and/or NMFS do not concur the project “is not likely to adversely affect” federally protected species or adversely modify critical habitats **OR** the proposal is “likely to adversely affect” any federally protected (listed or proposed) Threatened or Endangered Species.

**Wild and Scenic Rivers: A)** The project is not located within one mile of a listed Wild and Scenic River, **OR** the project will have no effects on the natural, free flowing or scenic qualities of a river in the National Wild and Scenic Rivers system. **B) I**mpact resolution and/or mitigation required.

**Air Quality: A)** The project is located within an “attainment” area, **OR**, if within a “non-attainment” area, conforms with the EPA-approved State Implementation Plan (SIP), per contact with a regional Clean Air Agency, **AND** the project requires no individual NESHAP permit or notification; **B)** Negotiate suitable mitigation measures with the relevant regional Clean Air Agency, obtain necessary permits, issue required notices. (For example, 40 CFR §61.145 requires 10-day prior notification to the Air Quality District Administrator whenever either 260 linear ft., 160 sq.ft., or 35 cubic ft., of asbestos containing material is to be disturbed).

**Farmland Protection: A)** The project site does not include prime or unique farmland, or other farmland of statewide or local importance as identified by the U.S. Department of Agriculture, Natural Resources Conservation Service NRCS (formerly the Soil Conservation Service), **OR** the project site includes prime or unique farmland, but is located in an area committed to urban uses; **B)** Project site includes prime or unique farmland as identified by NRCS.

**Noise Abatement and Control: A)** The project does not involve development of noise sensitive uses, **OR** the project is not within 15 miles of a civil airport or military airfield, within 1000 feet of major highways or busy roads, or with 3000 feet of a railroad, **OR** ambient noise level is documented to be 65 LDN (CNEL) or less, based upon the HUD Noise Assessment Guidelines (NAG); **B)** Development project requires mitigation to meet HUD”s noise standards at 24 CFR 51B.

**Explosive or Flammable Operations: A)** The project is located at an Acceptable Separation Distance (ASD) from any above-ground explosive or flammable fuels or chemicals containers according to 24 CFR 51C, **OR** the project will expose neither people nor buildings to such hazards; **B)** Project requires mitigation to meet Acceptable Separation Distance.

**Toxic Chemicals and Radioactive Materials: A)** The subject and adjacent properties are free of hazardous materials, contamination, toxic chemicals, gasses and radioactive substances which could affect the health or safety of occupants or conflict with the intended use of the subject property. **B)** Project requires mitigation to meet HUD’s toxic standards.

**Environmental Justice: A)** The proposed site is suitable for its proposed use and will NOT have a disproportionate environmental impact on low income or minority populations; **B)** Site suitability is a concern; the proposal is adversely affected by environmental conditions disproportionately impacting low income or minority populations.

**Airport Clear Zones and Accident Potential Zones: A)** The project is not located within an FAA-designated civilian airport Runway Clear Zone (RCA) or Runway Protection Zone, or within the military Airfield Clear Zone (CZ) or Accident Potential Zone/Approach Protection Zone (APZ), based upon information from the airport or military airfield administrator identifying the boundaries of such zones, **OR** the project involves only minor rehabilitation, **OR** the project involves only the sale or purchase of an existing property in the RCZ or CZ; **B)** It is HUD policy not to provide any development assistance, subsidy or insurance in RCZs or CZs unless the project will not be frequently used or occupied by people and the airport operator provides written assurances that there are no plans to purchase the project site.

***Remember: To include as part of the Environmental Review Record all source documentation including the completed Green Sheets.***

*Publish or post this notice when there is a Status “***B***” on the Statutory Worksheet.*

**NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS**

Date of Notice

Name of Responsible Entity [RE]

Address

City, State, Zip Code

Telephone Number of City/County Preparer Agency

On or about (at least one day after the end of the comment period), the City/County will submit a request to the Idaho Department of Commerce for the release of funds under Title 1 of the Housing and Community Development Act of 1974, as amended, to undertake a project known as (Project Title), for the purpose of (Nature/Scope of project, estimated funding, and project location if applicable).

The activity proposed is categorically excluded under HUD regulations at 24 CFR Part 58 from National Environmental Policy Act requirements. An Environmental Review Record (ERR) that documents the environmental determinations for this project is on file at Name and Address of City/County office where ERR can be examined and name and address of other locations where the record is available for review and may be examined or copied weekdays \_\_\_ A.M. to \_\_\_ P.M.

PUBLIC COMMENTS

Any individual, group, or agency may submit written comments on the ERR to the City/County designated office responsible for receiving and responding to comments. All comments received by (If notice is published: notice date plus seven days; If notice is posted: posting date plus ten days) will be considered by the City/County prior to authorizing submission of a Request for Release of Funds.

RELEASE OF FUNDS

The City/County certifies to the Idaho Department of Commerce that Name of Certifying Officer in his/her capacity as Official Title consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. Idaho Department of Commerce approval of the certification satisfies its responsibilities under NEPA and related laws and authorities, and allows the City/County to use Program funds.

OBJECTIONS TO RELEASE OF FUNDS

The Idaho Department of Commerce will accept objections to its release of funds and the City/County's certification for a period of sixteen (16) days following the anticipated submission date or its actual receipt of the request (whichever is later) only if they are on one of the following bases:

1. The certification was not executed by the Certifying Officer of the City/County;
2. The City/County has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR Part 58.
3. The grant recipient has committed funds or incurred costs not authorized by 24 CFR Part 58 before approval of a release of funds by the Idaho Department of Commerce; or,
4. Another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality.

Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58) and shall be addressed to:

Dennis Porter, Manager

Idaho Department of Commerce

700 West State Street

PO Box 83720

Boise, Idaho 83720-0093

208-287-0782

[dennis.porter@commerce.idaho.gov](mailto:dennis.porter@commerce.idaho.gov)

Potential objectors should contact the Idaho Department of Commerce to verify the actual last day of the objection period.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Signature of Chief Elected Official of Grantee)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Typed Name and Title)

This Notice can be provided in a format accessible to persons with disabilities and/or persons with limited English proficiency upon request.

Se le puede proveer esta notificación en un formato accesible para las personas discapacidades y/o personas con conocimientos limitados del inglés a pedido.

|  |  |  |
| --- | --- | --- |
| **Request for Release of Funds and Certification** | **U.S. Department of Housing and Urban Development**  Office of Community Planning and Development | OMB No. 2506-0087  (exp. 03/31/2020) |

This form is to be used by Responsible Entities and Recipients (as defined in 24 CFR 58.2) when requesting the release of funds, and requesting the authority to use such funds, for HUD programs identified by statutes that provide for the assumption of the environmental review responsibility by units of general local government and States. Public reporting burden for this collection of information is estimated to average 36 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

**Part 1. Program Description and Request for Release of Funds (to be completed by Responsible Entity)**

**The recipient(s) of assistance under the program(s) listed above requests the release of funds and removal of environmental grant conditions governing the use of the assistance for the following**

9. Program Activity(ies)/Project Name(s)

10. Location (Street address, city, county, State)

|  |  |  |
| --- | --- | --- |
| 1. Program Title(s)  State of Idaho Community Development Block Grant Program | 2. HUD/State Identification Number  B-20-DC-16-0001 | 3. Recipient Identification Number (optional) |
| 4. OMB Catalog Number(s) 14.228 | 5. Name and address of responsible entity | |
| 6. For information about this request, contact (name & phone number) |
| 8. HUD or State Agency and office unit to receive request  Idaho Department of Commerce | 7. Name and address of recipient (if different than responsible entity) | |

11. Program Activity/Project Description

 form **HUD-7015.15** (1/99)

**Part 2. Environmental Certification** (to be completed by responsible entity)

|  |
| --- |
| **With reference to the above Program Activity(ies)/Project(s), I, the undersigned officer of the responsible entity, certify that:**  1. The responsible entity has fully carried out its responsibilities for environmental review, decision-making and action pertaining to the project(s) named above. |
| 1. The responsible entity has assumed responsibility for and complied with and will continue to comply with, the National Environmental Policy Act of 1969, as amended, and the environmental procedures, permit requirements and statutory obligations of the laws cited in 24 CFR 58.5; and also agrees to comply with the authorities in 24 CFR 58.6 and applicable State and local laws. 2. The responsible entity has assumed responsibility for and complied with and will continue to comply with Section 106 of the National Historic Preservation Act, and its implementing regulations 36 CFR 800, including consultation with the State Historic Preservation Officer, Indian tribes and Native Hawaiian organizations, and the public. |
| **4. After considering the type and degree of environmental effects identified by the environmental review completed for the proposed project described in Part 1 of this request, I have found that the proposal did did not require the preparation and dissemination of an environmental impact statement.** |
| 5. The responsible entity has disseminated and/or published in the manner prescribed by 24 CFR 58.43 and 58.55 a notice to the public in accordance with 24 CFR 58.70 and as evidenced by the attached copy (copies) or evidence of posting and mailing procedure. |
| 6. The dates for all statutory and regulatory time periods for review, comment or other action are in compliance with procedures and requirements of 24 CFR Part 58. |
| 7. In accordance with 24 CFR 58.71(b), the responsible entity will advise the recipient (if different from the responsible entity) of any special environmental conditions that must be adhered to in carrying out the project.  **As the duly designated certifying official of the responsible entity, I also certify that:** |

|  |  |
| --- | --- |
| 8. I am authorized to and do consent to assume the status of Federal official under the National Environmental Policy Act of 1969 and each provision of law designated in the 24 CFR 58.5 list of NEPA-related authorities insofar as the provisions of these laws apply to the HUD responsibilities for environmental review, decision-making and action that have been assumed by the responsible entity. | |
| 9. I am authorized to and do accept, on behalf of the recipient personally, the jurisdiction of the Federal courts for the enforcement of all these responsibilities, in my capacity as certifying officer of the responsible entity. | |
| Signature of Certifying Officer of the Responsible Entity  **X** | Title of Certifying Officer |
| Date signed |
| Address of Certifying Officer | |
| **~~Part 3. To be completed when the Recipient is not the Responsible Entity~~** | |
| ~~The recipient requests the release of funds for the programs and activities identified in Part 1 and agrees to abide by the special conditions, procedures and requirements of the environmental review and to advise the responsible entity of any proposed change in the scope of the project or any change in environmental conditions in accordance with 24 CFR 58.71(b).~~ | |
| ~~Signature of Authorized Officer of the Recipient~~  **~~X~~**  **Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)  Previous editions are obsolete form **HUD-7015.15** (1/99) | ~~Title of Authorized Officer~~ |
| ~~Date signed~~ |

**EXHIBIT F**

**GREEN SHEETS and other**

## SOURCE DOCUMENTATION

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**DISCLAIMER**: These checklists were developed by HUD Region X and Commerce and are intended as a tool to help CDBG grantees and grant administrators complete environmental requirements. The checklists are

not HUD policy statements, and the laws, regulations, executive orders

and other authorities take precedence over any information found in the

checklists.

These checklists are also available online at:

<http://commerce.idaho.gov/communities/community-grants/community-development-block-grant-cdbg>

**GREEN SHEET F.1**

# Historic Preservation

**Checklist**

|  |  |  |
| --- | --- | --- |
| **General requirements** | **Legislation** | **Regulation** |
| Protect sites, buildings, and objects with national, state or local historic, cultural and/or archeological significance. Identify effects of project on properties | National Historic Preservation Act, 16 U.S.C. 470(f), Section 106 | 36 CFR Part 1294  36 CFR Part 800  24 CFR Part 58.5(a) |

1. **Does the project include repair, rehabilitation or conversion of existing properties; new construction; the acquisition of undeveloped land; or any activity that requires ground disturbance (defined as one cubic foot of disturbed soil)?**

No: STOP here. The Section 106 Historic Preservation review is complete.

* Record your determination that the project type will not adversely affect historic properties on the Statutory Worksheet or Environmental Assessment.

Yes: PROCEED to #2

1. **Does the project involve a structure that is less than 50 years old, is not in a historic district and has no ground disturbing activities and you have determined there is no potential to cause effects on historic properties per 36 CFR 800.3(a)(1)?**

Yes: STOP here. The Section 106 Historic Preservation review is complete.

Record your determination that there is no potential to cause effect, including the age of the existing building and information from the National Register to show that the activity is not in a historic district, on the Statutory Worksheet or Environmental Assessment.

No: PROCEED to #3

1. **Consult with SHPO or THPO and any tribes or groups that may have an interest in the project to determine if the project is eligible for the National Register of Historic Places.**

Identify Historic Properties within the Area of Potential Effects either by entering the address(es) or providing a map depicting the APE. The APE is defined as the geographic area within which an undertaking may directly or indirectly cause changes in the character or use of historic properties. The APE is influenced by the scale and nature of an undertaking. (36 CFR Part 800.16)

* Consult the State Historic Preservation Officer (SHPO) or if the project is on tribal land, the Tribal Historic Preservation Officer (THPO) with details of the project and project site. SHPO or THPO typically has 30 days from receipt of a well-documented request to make a determination. We recommend sending the letter with a return receipt form to document the contact. If they do not respond within the timeframe, you may proceed with your determination or consult with the Advisory Council on Historic Preservation (ACHP). See page 61 & 62 for SHPO and THPO contact information.
* Determine if there are tribes or groups that have demonstrated interest in the historic aspects of the project and invite them to participate in the consultation. You must make a reasonable and good faith effort to identify Indian tribes that may have an interest.

**Proceed as appropriate based on the Finding:**

**No Historic Properties Affected:** STOP here. The Section 106 Historic Preservation review is complete.

Attach SHPO/THPO concurrence, copies of letters to and from other interested parties and the tribes, and your response to the ERR. If SHPO/THPO did not respond within 30 days, your dated letter documents compliance. Record your determination of no historic properties affected on the Statutory Worksheet or Environmental Assessment.

**No Adverse Effect on Historic Property:** STOP here. The Section 106 Historic Preservation review is complete. **Categorically Excluded projects (24 CFR Part 58.35(a)) CANNOT convert to exempt with this determination.**

Attach SHPO/THPO concurrence, copies of letters to and from other interested parties and the tribes, and your response to the ERR. Record your determination of no adverse effect on historic properties on the Statutory Worksheet or Environmental Assessment.

**Adverse Effect on Historic Property:** Resolve Adverse Effects per 800.6 in consultation with SHPO/THPO, the ACHP if participating, and any consulting parties. The loan or grant may not be approved until adverse effects are resolved according to 800.6 or you have complied with 36 CFR Part 800. Categorically Excluded projects (24 CFR Part 58.35(a)) CANNOT convert to exempt with this determination.

Make sure that the resolution is fully documented in your ERR with all SHPO/THPO correspondence, copies of letters to and from other interested parties and the tribes, surveys, MOAs etc.

Historic Preservation Contacts

National Contacts

**Idaho State Historic Preservation Office**

Ashley Brown

Historic Preservation Review Officer

ashley.brown@ishs.idaho.gov  
210 Main Street  
Boise, Idaho 83702

Phone: (208)488-7463

Website: <http://history.idaho.gov/location/shpo/> (Includes contact names and addresses, guidance on submitting Section 106 consultation requests, and useful links.)

##### If a project has a potential adverse impact the Grantee may need to contact the Advisory Council on Historic Preservation.

##### Advisory Council on Historic Preservation

Office of Federal Agency Programs

401 F Street, NW, Suite 308

Washington, DC 20001-2637

Phone: (202) 517-0200

Fax: (202) 517-6381

E-mail: [achp@achp.gov](mailto:achp@achp.gov)

Website: [www.achp.gov](http://www.achp.gov) (The ACHP’s Website includes more information about working with Section 106 and contact information for federal agencies, SHOPs, and THPOs. The ACHP also publishes Section 106 Success Stories at [www.achp.gov/sec106\_successes.html](http://www.achp.gov/sec106_successes.html))

##### Tribal Historic Preservation Officers and Tribal Contacts

|  |  |
| --- | --- |
| **Note: The areas of Idaho of interest to the tribes overlap in some instances and referral to two or more tribes may be necessary for at least the initial contact.** | |
| Ted Howard, Director  Cultural Resource Program  **Shoshone-Paiute Tribe**  PO Box 219  Owyhee, NV 89832  775-757-3161 ext 243  208-759-3100 ext 243  Fax: 775-757-2219  [Howard.ted@duckvalley.org](mailto:Howard.ted@duckvalley.org) | Josie Shattanana  Cultural Resource Program  **Kootenai Tribe of Idaho**  PO Box 1269  Bonners Ferry, ID 83805  208-267-3519  Fax: 208-267-2960  [josie@kootenai.org](mailto:josie@kootenai.org) |
| Jill Maria Wagner, Ph.D., THPO  **Coeur d’Alene Tribe**  PO Box 408  Plummer, ID 83851  208-686-1572  Fax: 208-686-1901  [jwagner@cdatribe-nsn.gov](mailto:jwagner@cdatribe-nsn.gov) | Patrick Baird, THPO  **Nez Perce Tribe**  PO Box 305  Lapwai, ID 83540  208-621-3851  Fax: 208-843-7419  [keithb@nezperce.org](mailto:keithb@nezperce.org) |
| Kyle Felsman, THPO  **Confederated Salish & Kootenai Tribes**  42487 Complex Boulevard  Pablo, MT 59855  406-675-2700 ext 1077  [kyle.felsman@cskt.org](mailto:kyle.felsman@cskt.org) | Carolyn Boyer Smith  Cultural Resource Coordinator  **Shoshone-Bannock Tribes**  PO Box 306 Pima Dr  Fort Hall, ID 83203  208-236-1086  [csmith@sbtribes.com](mailto:csmith@sbtribes.com) |
| Kevin Lyons  Cultural Resource Archeologist  **Kalispel Tribe**  PO Box 39  Usk, WA 99180  509-445-1147  Fax: 509-445-1705  [kjlyons@knrd.org](mailto:kjlyons@knrd.org) | Patti Timbimboo  Cultural Resource Program  **Northwest Band Shoshone Tribe**  862 S. Main Street, Suite 6  Brigham City, UT 84302  435-734-2286 ext 13  Fax: 435-734-0424  [ptimbimboo@nwbshoshone-nsn.gov](mailto:ptimbimboo@nwbshoshone-nsn.gov) |
| Charisse Soucie, THPO  **Burns-Paiute General Council**  HC-71 100 Pasigo St.  Burns, OR 97720-9303  541-573-2323  Fax: 541-573-2422  [charisse.soucie@burnspaiute-nsn.gov](mailto:charisse.soucie@burnspaiute-nsn.gov) |  |

#### 

# GREEN SHEET F.2

# Floodplain Management

## Checklist

|  |  |  |
| --- | --- | --- |
| **General requirements** | **Legislation** | **Regulation** |
| Avoid the adverse impacts associated with the occupancy and modification of floodplains.  Avoid floodplain development whenever there are practicable alternatives. | Executive Order 11988, May 24 1977 | 24 CFR Part 55 |

1. **Is the Project located in a floodway or a 100 or 500-year flood plain?**

* For projects in areas mapped by FEMA, maintain the FEMA map panel that includes your project site. <https://msc.fema.gov/portal/home> Make sure to include the map panel number and date. For projects in areas not mapped by FEMA, use the best information available to determine floodplain information. Include documentation of why this is the best available information for the site.

No: STOP here. The Floodplain Management regulations do not apply.

* Record your determination that the project is not in a floodplain or floodway.

Yes: Floodway. **STOP**. **The National Flood Insurance Program prohibits federal financial assistance for use in a floodway.** The only exception is for functionally dependent uses, such as a marina, a port facility, a waterfront park, a bridge or a dam. If your project is a functionally dependent use in a floodway, **PROCEED** to #3

Yes: 500-year flood plain (Zone B or X on FEMA maps or best information). **PROCEED to #2**

Yes: 100 Year flood plain (Zone A or V on FEMA maps or best information). **PROCEED to #3**

Yes: Flood prone area. **PROCEED to #3**

1. **For projects in the 500-year flood plain: Does your project involve a critical action, defined *as an activity for which even a slight chance of flooding would be too great because it might result in loss of life, injury or property damage?***

Specific examples include:

* + Structures or facilities that produce, use or store highly volatile, flammable, explosive, toxic or water-reactive materials.
  + Structures or facilities that provide essential and irreplaceable records or utility or emergency services that may become lost or inoperative during flood and storm events (e.g., data storage centers, generating plants, principal utility lines, emergency operations centers including fire and police stations, and roadways providing sole egress from flood-prone areas).
  + Structures or facilities that are likely to contain occupants who may not be sufficiently mobile to avoid loss of life or injury during flood or storm events, e.g. persons who reside in hospitals, nursing homes, convalescent homes, intermediate care facilities, board and care facilities, and retirement service centers. Housing for independent living for the elderly is not considered a critical action.

No: STOP here. The project can proceed without further analysis. Record your determination and attach flood plain map and documentation that project does not involve a critical action.

Yes: PROCEED to #3

1. **Does your project meet one of the categories of proposed action for which the floodplain management regulations do not apply?**

**Several common exemptions include** (please see 24 CFR 55.12 for additional categories of proposed action)**:**

* Financial assistance for minor repairs or improvements on one-to-four-family properties that do not meet the thresholds for ‘substantial improvement’ under 55.2 (b)(8). HUD defines substantial improvement as any repair, reconstruction, modernization or improvement of a structure, the cost of which equals or exceeds 50% of the market value before the improvement (and before any damage occurred.)
* A minor amendment to a previously approved action with no additional adverse impact on or from a floodplain.
* Approval of a project site, an incidental portion of which is situated in an adjacent floodplain, but only with certain further conditions (see 24 CFR 55.12(c)(6)).
* A project on any site in a floodplain for which FEMA has issued a final Letter of Map Amendment or Letter of Map Revision that removed the property from a FEMA-designated floodplain location.
* A project on any site in a floodplain for which FEMA has issued a conditional LOMA or LOMR if the approval is subject to the requirements and conditions of the conditional LOMA or LOMR.

Yes: Stop here.

* Record your determination that the project is exempt from floodplain management regulations per 24 CFR 55.12.
* Maintain copies of all of the documents you have used to make your determination.

Note: you may still have to maintain flood insurance on the project per the Flood Disaster Protection Act.

**No: PROCEED to #4.**

1. **Does your project meet one of the categories of proposed action for which the 8-step decision making process does not apply?**

**Exemptions include:** See 24 CFR 55.12(b) for categories of proposed action**.**

CDBG projects are unlikely to meet these exemptions.

Yes: Stop Here.

* Record your determination that the project is exempt from the 8-step process as per 24 CFR 55.12(b).

* Maintain copies of all documents you have used to make your determination.

Note: you may still have to maintain flood insurance on the project per the Flood Disaster Protection Act. Also note that notification of floodplain hazard requirements at 24 CFR 55.21 may apply.

No: PROCEED to #5

1. **Does your project meet the following categories of proposed action for which a 5-step (limited 8-step) process applies?**

* Actions under any HUD program involving the repair, rehabilitation, modernization, weatherization, or improvement of existing multifamily housing projects, nursing homes, assisted living facilities, board and care facilities, intermediate care facilities and one-to four family properties where the project occurs in a community in the Regular Program of the National Flood Insurance Program (NFIP) and is in good standing, and the project meets the following:
  + units are not increased more than 20 percent,
  + the action does not involve a conversion from nonresidential to residential land use,
  + the action does not meet the thresholds for ‘substantial improvement’, and
  + the footprint of the structure and paved areas is not significantly increased.

OR

* Actions under any HUD program involving the repair, rehabilitation, modernization, weatherization, or improvement of existing nonresidential buildings and structures in a community in the Regular Program of the NFIP and is in good standing, and the project meets the following:
  + the action does not meet the thresholds for ‘substantial improvement’ and
  + the footprint of the structure is not significantly increased.

Yes:

* Complete the 5-step decision-making process for floodplains. You do not have to publish the notices in steps 2 or 7 or do an analysis of alternatives in Step 3.
* If still practicable, document your analysis in the file and move forward.
* If not still practicable, either reject or modify project

**No: PROCEED to #6**

**HUD strongly discourages use of funds for projects that do not meet an exemption in Part 55.12. Reject the project Site or Request a Letter of Map Amendment or Revision (LOMA/R) from FEMA. If you decide to consider the project you must determine if there are alternatives by completing the 8-step decision-making process described in 24 CFR Section 55.20.**

1. **After completing the 8-step review, is it deemed to move forward with the project?**

No:

* Reject or modify project

Yes:

* Document your 8-step analysis, including floodplain notices, in your Environmental Review Record. You must notify any private party participating in a financial transaction for the property of the hazards of the floodplain location before the execution of documents completing the transaction. (24 CFR Section 55.21)

Please note that requesting a LOMA/R or completing the 8-step process take time and resources. The 8-step decision making process requires two public notice and comment periods.

You must maintain flood insurance on the project per the Flood Disaster Protection Act.

**FLOOD PLAIN (OR WETLAND) 8-STEP REVIEW**

**Flood Plain Project Requirements**

You cannot build ICDBG assisted projects in a floodway, which is the channel that must be kept free of encroachment so that minor flooding of one percent will not cause flood damage. These areas are identified on the flood plain maps. **“ICDBG projects should also not be built in a 100-year flood plain” whenever possible. If they are to be built in a flood plain then an eight-step process must be followed**. The Statutory Checklist and Environmental Assessment checklists must disclose the flood plain map number, unless there are no maps available. Flood plain maps can be found at [www.fema.gov](http://www.fema.gov).

If project requires a 404 permit, contact Commerce before proceeding with the 8-Step Review.

**The eight step process defined in 24 CFR 55.20 is as follows:**

**A. Step 1. Determine whether the proposed action is located in a 100-year flood plain (or a 500-year flood plain for a critical action). If the proposed action would not be conducted in one of those locations, then no further compliance is required.**

Critical Action is defined *as any activity for which even a slight chance of flooding would be too great, because flooding might result in loss of life, injury to persons, or damage to property.* Critical actions include activities that create, maintain or extend the useful life of those structures or facilities that:

1. Produce, use or store highly volatile, flammable, explosive, toxic or water-reactive materials;

2. Provide essential and irreplaceable records or utility or emergency services that may become lost or inoperative during flood and storm events, e.g., data storage centers, generating plants, principal utility lines, emergency operations including fire and police stations, and roadways providing sole egress from flood-prone areas.

3. Facilities likely to contain occupants who may not be sufficiently mobile to avoid loss of life or injury during flood or storm events, e.g., persons who reside in hospitals, nursing homes, convalescent homes, intermediate care facilities, and retirement service centers. Housing for independent living for the elderly is not considered a critical action.

**B. Step 2. Notify the public, at the earliest possible time, of a proposal to consider an action in a 100-year flood plain (or in the 500-year flood plain for a critical action), and involve the affected and interested public in the decision making process. Publish the Early Notice and Public Review of a Proposed Activity in a 100 Year Floodplain, (See example notices). Must be published and allow 16 days before publishing FONSI Notice**.

1. Notices required under this part must be bilingual if the affected public is largely non-English speaking. In addition, all notices must be published in an appropriate local printed news medium, and must be sent to federal, state, and local public agencies, organizations, and where not otherwise covered, individuals known to be interested in the proposed action.

2. A minimum of 16 calendar days shall be allowed for comment on the public notice.

3. A notice under this paragraph shall state: the name, proposed location and description of the activity; the total number of acres of flood plain involved; and the official and phone number to contact for information. The notice shall indicate the hours and the office at which a full description of the proposed action may be reviewed. (See example notices).

**C. Step 3. Identify and evaluate practicable alternatives to locating the proposed action in a 100-year flood plain (or the 500-year flood plain for a critical action).**

1. The consideration of practicable alternatives to the proposed site or method may include:

1. Locations outside the 100-year flood plain (or a 500-year flood plain for a critical action).
2. Alternative methods to serve the identical project objective.

c. A determination not to approve any action.

2. In reviewing practicable alternatives, the department or a grant recipient subject to 24 CFR Part 58, shall consider feasible technological alternatives, hazard reduction methods and related mitigation costs, and environmental impacts.

**D. Step 4. Identify the potential direct and indirect impacts associated with the occupancy or modification of the 100-year flood plain (or a 500-year flood plain for a critical action).**

**E. Step 5. Where practicable, design or modify the proposed action to minimize the potential adverse impacts within the 100-year flood plain (including the 500-year flood plain for a critical action) and to restore and preserve its natural and beneficial values. All critical actions in the 500-year flood plain shall be designed and built at or above the 100-year flood plain (in the case of new construction) and modified to include:**

1. Preparation of and participation in an early warning system.

2. An emergency evacuation and relocation plan.

3. Identification of evacuation route(s) out of the 500-year flood plain.

4. Identification marks of past or estimated flood levels on all structures.

**F. Step 6. Reevaluate the proposed action to determine:**

1. Whether it is still practicable in light of its exposure to flood hazards in the flood plain, the extent to which it will aggravate the current hazards to other flood plains, and its potential to disrupt flood plain values.

2. Whether alternatives preliminarily rejected at Step 3 are practicable in light of the information gained in Steps 4 and 5.

**G. Step 7. If the reevaluation results in a determination that there is no practicable alternative to locating the proposal in the 100-year flood plain (or the 500-year flood plain for a critical action), publish the Final Notice and Public Explanation of a Proposed Activity in a 100-Year Floodplain.**

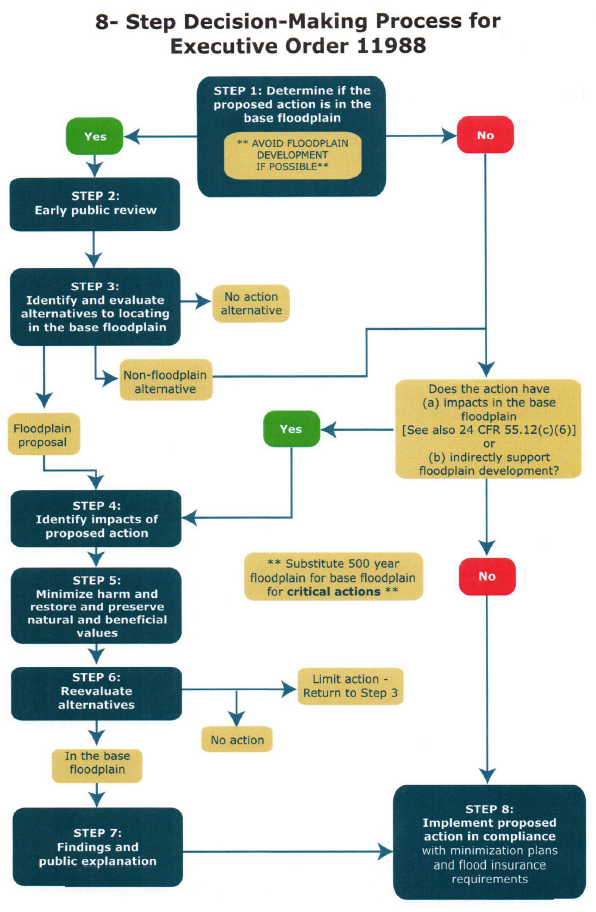
***\*\*This notice can be published concurrently with a FONSI or NOI / RROF Notice*:**

1. The reasons why the proposal must be located in the flood plain.

2. A list of the alternatives considered.

3. All mitigation measures to be taken to minimize adverse impacts and to restore and preserve natural and beneficial values.

**H. Step 8. Upon completion of the decision-making process in Steps 1 through 7, implement the proposed action. There is a continuing responsibility to ensure that the mitigating measures identified in Step 7 are implemented.**



**Flood Plains and Wetlands Notices**

### ****---------------------------------------------------------------------------------------------------------------------****

### ****Early Notice and Public Review of a Proposed**** ****Activity in a 100-Year Floodplain****

This is to give notice that **[City or County of \_\_\_\_\_\_\_\_\_]** is conducting an evaluation as required by **[Executive Order 11988 Floodplain and/or 11990 Wetlands]**, in accordance with HUD regulations at 24 CFR 55.20 Subpart C Procedures for Making Determinations on Floodplain Management, to determine the potential affect that its activity in the **floodplain and or wetland** will have on the human environment. The [**Project Name]** is funded in part by an Idaho Community Development Block Grant. The project scope of work includes **[project description and will encompass \_\_\_\_ acres of floodplain and or wetland].** The proposed project(s) is located in **[City or County of \_\_\_\_\_\_\_\_\_].**

The purpose for this notice is to involve the affected and interested public in the decision-making process.

Written comments must be received by **[City or County of \_\_\_\_\_\_\_\_]** at the following address on or before **[month, day, year] [a minimum 15 calendar day comment period will begin the day after the publication and end on the 16th day after the publication]**:  **[City or County of \_\_\_\_\_\_\_],** **[Address]** and **[phone number]**, Attention:  **[Name of Mayor or County Commissioner],** during the hours of 9:00 AM to 5:00 PM.  Comments may also be submitted via email at **[email address]**.

**This Notice can be provided in a format accessible to persons with disabilities and/or persons with limited English proficiency upon request.**

Se le puede proveer esta notificación en un formato accesible para las personas discapacidades y/o personas con conocimientos limitados del inglés a pedido.

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### ****---------------------------------------------------------------------------------------------------------------------****

### ****Final Notice and Public Explanation of a Proposed**** ****Activity in a 100-Year Floodplain****

### 

This is to give notice that the **[City or County of \_\_\_\_\_\_\_\_\_\_\_\_\_]** has conducted an evaluation as required by **[Executive Order 11988 Floodplain and/or 11990 Wetlands]**, in accordance with HUD regulations at 24 CFR 55.20 Subpart C Procedures for Making Determinations on Floodplain Management, to determine the potential affect that its activity in the floodplain and wetland will have on the human environment. The [**Project Name]** is fund in part by an Idaho Community Development Block Grant. The project scope of work includes **[project description and will encompass \_\_\_\_ acres of floodplain and or wetland].** The proposed project(s) is located in **[City or County of \_\_\_\_\_\_\_\_\_].**

**[The City or County of \_\_\_\_\_\_\_\_\_\_\_\_\_]** has considered the following alternatives and mitigation measures to be taken to minimize adverse impacts and to restore and preserve natural and beneficial values: **[Identify project alternatives including no action] and [Acknowledge compliance with state and local floodplain protection procedures and mitigation measures.]**

**[The City or County of \_\_\_\_\_\_\_\_\_]** has reevaluated the alternatives to building in the floodplain and has determined that it has no practicable alternative.  Environmental files that document compliance with steps 3 through 6 of **[Executive Order 11988 and/or 11990]**, are available for public inspection, review and copying upon request at the times and location delineated in the last paragraph of this notice for receipt of comments.  This activity must be located in the floodplain because no practical alternative is applicable.

Written comments must be received by the **[HUD or Responsible Entity]** at the following address on or before **[month, day, year] [a minimum 7 calendar day comment period will begin the day after the publication and end on the 8th day after the publication]**:  **[City or County of \_\_\_\_\_\_\_\_\_\_]**, **[Address]** and **[phone number]**, Attention:  **[Name of Mayor or County Commissioner]**, **during** the hours of 9:00 AM to 5:00 PM.  Comments may also be submitted via email at **[email address]**.

This Notice can be provided in a format accessible to persons with disabilities and/or persons with limited English proficiency upon request.

Se le puede proveer esta notificación en un formato accesible para las personas discapacidades y/o personas con conocimientos limitados del inglés a pedido.

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# GREEN SHEET F.3

# Protection of Wetlands

## Checklist

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| --- | --- | --- |
| **General requirements** | **Legislation** | **Regulation** |
| Avoid the adverse impacts associated with the destruction and modification of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative. | Executive Order 11990, May 24 1977 | None, but can use 24 CFR 55 for general guidance. |

1. **Does the project include new construction, rehabilitation that expands the footprint of the building, or ground disturbance?**

No: STOP here. The Protection of Wetlands executive order does not apply. Record your determination that the project is not in a wetland.

Yes: Proceed to #2

1. **Is there a wetland on your project site?**

* Use both national and local resources to make this determination. A good first step is to check the National Wetlands Inventory’s digital wetlands mapper tool: <http://www.fws.gov/nwi/> If site conditions or other documents indicate there may be a wetland, next check with city, county or tribal experts for local wetlands inventories. If none exist, the presence of hydric soils can indicate a wetland. If you suspect a wetland due to soil type or site conditions, you should commission a professional site survey to delineate the wetland and its boundaries.

Maintain, in your ERR, all documents you have collected to make your wetlands determination.

HUD defines a wetland as *those areas that are inundated with surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction.*

Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds.

Note that the US Army Corps of Engineers (USACE) has a different definition of wetlands. A determination by the USACE that there is no jurisdictional wetland on site is not sufficient documentation for HUD’s purposes.

No: STOP here. The Protection of Wetlands executive order does not apply. Record your determination that the project is not in a wetland.

Yes: Consider moving your project so there will be no destruction or modification of the wetland. If not possible, PROCEED to #3

1. **Does your project involve new construction in the wetland? New construction includes draining, dredging, channelizing, filling, diking, impounding, and related activities.**

No: STOP here. The Protection of Wetlands executive order does not apply.

* Record your determination that the project does not involve new construction in a wetland.

Yes: Consider moving your project so there will be no destruction or modification of the wetland. If not possible, PROCEED to #4

**4. Consider whether there are any practicable alternatives to locating project in a wetland.**

* Complete the 8-step decision-making process for wetlands. Follow the 8-step decision-making processdescribed in 24 CFR Part 55.20 with the following changes:
* The exemptions at 24 CFR 55.12 for floodplain management requirements do not apply to wetlands
* Step 4 should consider the factors relevant to a proposal’s effect on the survival and quality of the wetlands.

A completed Individual Section 404 permit can be used as back-up documentation for the 8-step process.

Yes: If there are practicable alternatives, you should reject the project site and choose the alternative.

No: Move forward following mitigation as required.

|  |
| --- |
| See EXHIBIT F.2 - Flood Plain (and Wetland) 8-Step Review |

# GREEN SHEET F.4

# Sole Source Aquifers

## Checklist

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| --- | --- | --- |
| **General requirements** | **Legislation** | **Regulation** |
| Protect drinking water systems which are the sole or principal drinking water source for an area and which, if contaminated, would create a  significant hazard to public health. | Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300 et seq., and 21 U.S.C. 349) | 40 CFR 149.2 |

**1. Is the project located on a sole source aquifer (SSA) including streamflow source areas?**

* Maintain, in your ERR, a copy of the latest SSA printout from the internet site <https://www.epa.gov/dwssa/map-sole-source-aquifer-locations>
* Make sure you consider streamflow source areas. If your project is close to the boundary and you are not certain if it is on the SSA, contact Commerce Staff to help assess determination. You will need to provide the project street address and detailed maps, if available.

No: STOP here. The Sole Source Aquifer authority does not apply. Identify the project site on the following map. Record your determination.

Yes: PROCEED to #2

1. **Does the project consist of an individual action on a one-to-four unit residential building (including acquisition, disposition, new construction and rehabilitation) that meets all applicable local and state groundwater regulations?**

Yes: STOP here. The project is not likely to affect Sole Source Aquifer quality.

* Record your determination on the Statutory Worksheet.

No:PROCEED to #3

1. **Does the project consist of acquisition, disposition or rehabilitation of a multifamily (5 or more dwelling units) residential building, commercial building or public facility that does not increase size or capacity and meets all applicable local and state groundwater regulations?**

Yes: STOP here. The project is not likely to affect Sole Source Aquifer quality.

* Record your determination on the Statutory Worksheet.

No: PROCEED to #4

1. **Does the project consist of new construction or rehabilitation that increases size or capacity of a multifamily building or commercial building that meets all applicable local/state ground-water regulations AND is served by public water, sewer and storm drainage systems?** (If the project uses well water or a septic system or infiltrates stormwater on site, you must proceed to Step #5.)

Yes: STOP here. The project is not likely to affect Sole Source Aquifer quality.

* Record your determination on the Statutory Worksheet.

No: PROCEED to #5

1. **Does project comply with 2000 Sole Source Aquifer Memorandum of Understanding (MOU) Performance Standards?**

Yes: STOP here

* Follow the 2000 Sole Source Aquifer Memorandum of Understanding between HUD/Idaho Department of Commerce, Idaho Housing and Finance Association, and EPA. Record your determination on the Statutory Worksheet and include MOU in documentation. **The Memorandum of Understanding on Sole Source Aquifers is at:** <https://commerce.idaho.gov/content/uploads/2020/07/EPA-MOU.pdf>

No: PROCEED to **#**6

1. **Is the project likely to affect Sole Source Aquifer Quality?**

No: STOP here. The project is not likely to affect Sole Source Aquifer quality.

Please submit the following information to EPA:

1. Location of Project and name of Sole Source Aquifer.
2. Project description and federal funding source.
3. Is there any increase of impervious surface? If so, what is the area?
4. Describe how storm water is currently treated on the site.
5. How will storm water be treated on this site during construction and after the project is complete?
6. Are there any underground storage tanks present or to be installed? Include details of such tanks.
7. Will there be any liquid or solid waste generated? If so how will it be disposed of?
8. What is the depth of excavation?
9. Are there any wells in the area that may provide direct routes for contaminates to access the aquifer and how close are they to the project?
10. Are there any hazardous waste sites in the project area, especially if the waste site has an underground plume with monitoring wells that may be disturbed? Include details.
11. Are there any deep pilings that may provide access to the aquifer?
12. Are Best Management Practices planned to address any possible risks or concerns?
13. Is there any other information that could be helpful in determining if this project may have an effect on the aquifer?
14. Does this Project include any improvements that may be beneficial to the aquifer, such as improvements to the wastewater treatment plan?

Submit the information to the Environmental Protection Agency (EPA), Seattle Office. Please note that EPA may request additional information if impacts to the aquifer are questionable after the information is submitted for review.

* Maintain copies of all of the documents you have used to make your determination and your correspondence with EPA.

Yes: Conduct a formal consultation, and if necessary, mitigate issues.

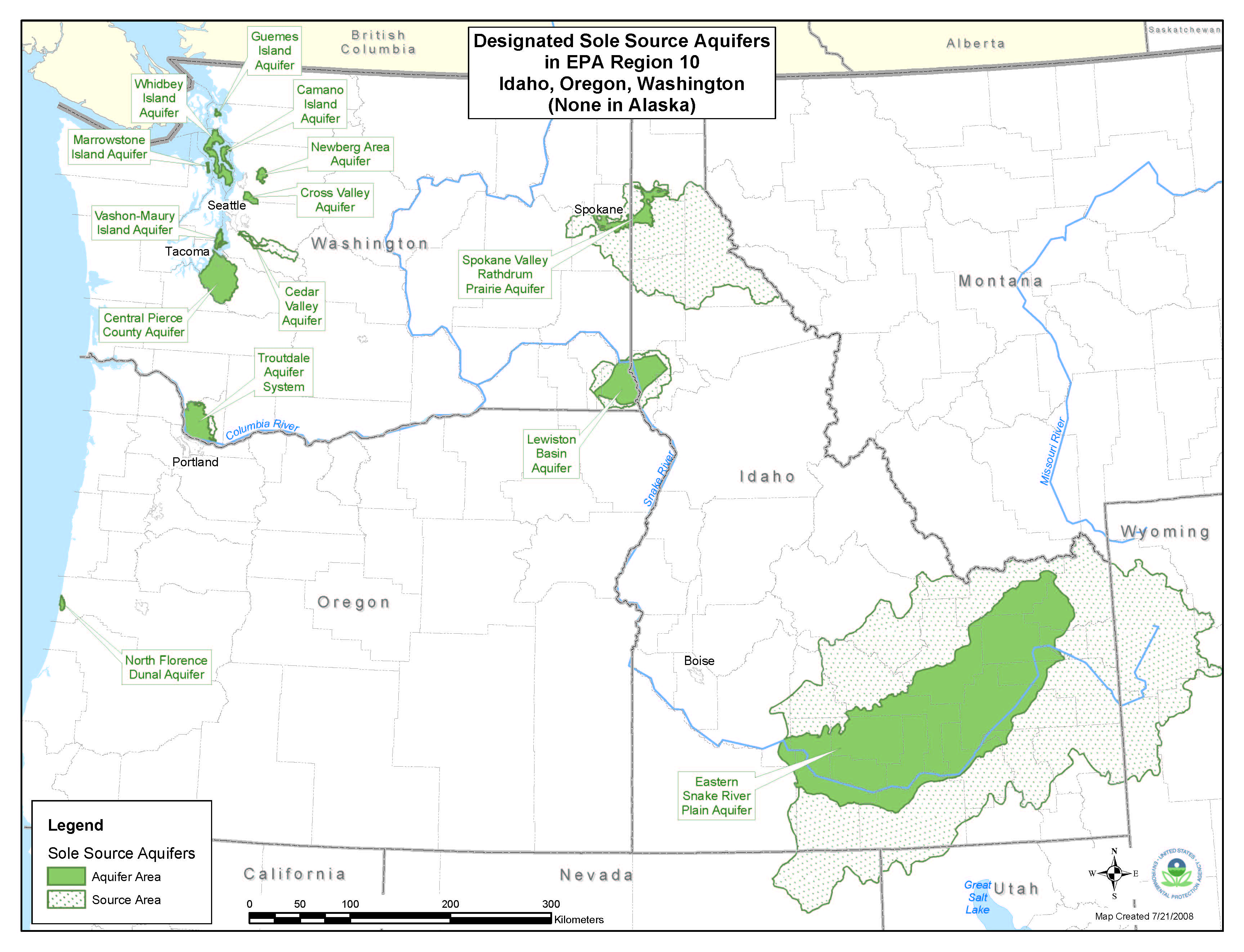
* **To begin formal consultation, please provide EPA with:**
* Maps
* Plans and specifications
* A narrative statement detailing the nature, scope and degree of ground-water protection measures incorporated into the design
* Mitigating measures incorporated into the design to enhance ground-water protection.

You may need to hire a technical consultant or request EPA to conduct an independent review of the proposed project for impacts to ground water quality. If EPA determines that the project continues to pose a significant contaminant hazard to public health, federal financial assistance must be denied.

Once it receives the necessary information, EPA has 30 days to respond to a formal consultation request, unless the agency requests additional review time in writing, or HUD, a HUD Responsible Entity or EPA receives comments suggesting that the project will have adverse impacts to a sole source aquifer.

Detailed maps are available at: [EPA Sole Source Maps](https://epa.maps.arcgis.com/apps/webappviewer/index.html?id=9ebb047ba3ec41ada1877155fe31356b)

Detailed maps are available at: [EPA Sole Source Maps](https://epa.maps.arcgis.com/apps/webappviewer/index.html?id=9ebb047ba3ec41ada1877155fe31356b)



**GREEN SHEET F.5**

**Endangered Species Act**

**Checklist**

|  |  |  |
| --- | --- | --- |
| **General requirements** | **Legislation** | **HUD Regulations** |
| Section 7 of the Endangered Species Act mandates that federally funded actions do not jeopardize the continued existence of plants and animals that are listed or result in the adverse modification or destruction of designated critical habitat. | Endangered Species Act of 1973;  [16 U.S.C.](http://en.wikipedia.org/wiki/Title_16_of_the_United_States_Code) [§ 1531](http://www.law.cornell.edu/uscode/16/1531.html) et seq | 24 CFR 58.5(e)  24 CFR 50.4 |

**Purpose**: The purpose of this guidance is intended to assist HUD and Responsible Entities meet their Endangered Species Act obligations. Note that a determination of “N**o Effect**” to federally listed threatened and endangered species and designated critical habitat fulfills HUD’s and the Responsible Entities obligation to ensure compliance with Section 7 of the Endangered Species Act. “No effect” determinations do not require coordination with or approval of the U.S. Fish and Wildlife Service and/or NOAA Fisheries.

**ESA Section 7 Background**

NMFS and FWS share responsibility for implementing the ESA. FWS trust resources under the ESA include birds, amphibians, plants, insects, terrestrial reptiles, terrestrial mammals, most freshwater fish, and a few marine mammals. NMFS manages the remainder of listed marine mammals, as well as anadromous fish such as salmon and steelhead.

Section 7(a) of the ESA directs all Federal agencies to conserve species listed as threatened or endangered. Those agencies, in consultation with NMFS and FWS, must ensure that their actions will not jeopardize the continued existence of any ESA-listed species. Based on analysis of the project activity and/or whether listed species or habitat is present, the Federal agency makes one of three determinations of effect for listed species:

* **“No effect”** is the appropriate conclusion if the proposed action will not affect listed species/critical habitat. If a “no effect” determination is made, the Federal agency is not obligated to contact FWS and/or NMFS for concurrence.
* When effects to listed species are expected to be insignificant or discountable, the action agency should make a **“not likely to adversely affect”** determination and contact FWS and/or NMFS, as appropriate, for written concurrence with that determination.
* If adverse effects are likely to occur as a direct or indirect result of the proposed action or its interrelated or interdependent actions, then the action agency should make a determination of **“likely to adversely affect.”** The Federal agency must initiate formal consultation with FWS and/or NMFS as appropriate.

As part of its Field Notes Review for ICDBG, the Responsible Entity sends an Environmental Information Letter or email to the U.S. Fish and Wildlife Service (FWS), Idaho Fish and Game (IFG), and (if applicable) NOAA fisheries (Steelhead or Salmon). The letter or email will give the agencies a chance to respond if there is a concern that there may be a ***direct*** or ***indirect*** impact and, as appropriate, to be the initial step in an informal consultation process.

* Maintain copies of any correspondence from the above agencies and include it in the ERR.

|  |  |  |
| --- | --- | --- |
| U.S. Dept of the Interior  Idaho Fish and Wildlife Office  1387 S. Vinnell Way, Ste. 368  Boise, ID 83709  208-378-5243  [www.fws.gov](http://www.fws.gov) | National Marine Fisheries (NOAA)  10095 W. Emerald  Boise, ID 83704  208-378-5696  [www.nmfs.noaa.gov](http://www.nmfs.noaa.gov) | Regional Offices of the Idaho Department of Fish and Game: <http://fishandgame.idaho.gov/public/about/offices/> |

NOTE: If the agencies do not respond within the 30-day timeframe, do not assume that there will be “no

effect”.

* Determine if there are federally (ESA) -listed or proposed species or designated or proposed critical habitat within the project’s area.
* For species under FWS jurisdiction, consult the list of Endangered/Threatened Species and Designated Critical Habitats in Idaho counties. Go to **IPAC**:<https://ecos.fws.gov/ipac/>
* For species under NOAA jurisdiction (Salmon and Steelhead), go to National Marine Fisheries: <http://www.streamnet.org/data/interactive-maps-and-gis-data/>

Note: Salmon and Steelhead are generally in Snake River Basin streams in Central Idaho—the Salmon River and Clearwater River drainages.

1. **Are there federally (ESA) listed or proposed species or designated or proposed critical habitat present, in the project’s area?** *Note: does not include candidate species.*

☐ Yes: PROCEED to #2.

☐ No: STOP here. The project will have No Effect on listed or proposed species and designated or proposed critical habitat. Consultation with the U.S. Fish and Wildlife Service and/or NOAA Fisheries is not required.

* Record your determination of no effect in the statutory worksheet and insert the IPAC data within your ERR.

1. **Does the project consist solely of interior rehabilitation and/or exterior rehabilitation that does not increase amount of impervious surface and/or include unsealed galvanized roofing material?**

***\* Not including galvanized material unless it has been sealed or otherwise confined so that it will not leach into storm water.***

☐ Yes: STOP here. The project will have No Effect on listed or proposed species and designated or proposed critical habitat. Consultation with the U.S. Fish and Wildlife Service and/or NOAA Fisheries is not required.

* Record your determination of no effect in the statutory worksheet and insert the species and critical habitat list within your ERR.

☐ No: Additional evaluation is necessary to determine whether the project may have an effect.

An evaluation requires the Grantee to review the federally-listed species profile(s) and recovery plan. information found at <http://www.fws.gov/endangered/> for Idaho.

* Based on the information provided in the profile and recovery plan for each species, determine if the ICDBG project will directly or indirectly affect the species.
* Would the project effects overlap with federally listed or proposed species or designated or proposed critical habitat covered by Fish and Wildlife service?

\*Note that project effects include those that extend beyond the project site itself, such as noise, air pollution, water quality, storm water discharge, visual disturbance; and habitat consideration must include consideration for roosting, feeding, nesting, spawning, rearing, overwintering sites, and migratory corridors.

Example: A new fire station project in Minidoka County that is 2 miles from the Snake River area that supports the Snake River snail. The Snake River snail is confined to the Snake River, inhabiting areas of swift current on sand to boulder-sized substrate. The project is also designed to retain storm and surface water on site and DEQ’s best management practices for surface water will be implemented during construction. Therefore, the evaluation supports making a determination of “No Effect.”

However, if the project is within the area or location of a T&E or CH species then the Grantee is unlikely to conclude “No Effect.” At this point contact FWS and/ or NOAA.

Example: A water line replacement project in New Meadows may affect the Northern Idaho

ground squirrel.

1. **Based on the additional evaluation what effects, if any, will your project have on federally listed species or designated critical habitat?**

**No Effect:** Based on the specifics of both the project and any federally listed species in the action area, you have determined that the project will have no effect on listed species or critical habitat.

* Document your determination of No Effect in the statutory checklist and provide:
  + Written justification for the No Effect for each species to include description of each species’ habitat
  + A copy of the species profile
  + A copy of pertinent recovery plan information, mitigation measures, and any FWS or NOAA correspondence in the ERR.
* Communicate the mitigation requirements to the project architect or engineer and verify that the mitigation is incorporated into the project development.

**May Affect, Not Likely to Adversely Affect:** Any effects that the project may have on federally listed species or critical habitats would be beneficial, discountable, or insignificant.

🡪 *Continue to Question 4, Informal Consultation.*

**Likely to Adversely Affect:** The project may have negative effects on one or more listed species or critical habitat.

🡪 *Continue to Question 5, Formal Consultation.*

1. **Informal Consultation is required**

Section 7 of ESA (16 USC. 1536) mandates consultation to resolve potential impacts to endangered and threatened species and critical habitats. If a HUD-assisted project may affect any federally listed endangered or threatened species or critical habitat, then compliance is required with Section 7. See 50 CFR Part 402 Subpart B Consultation Procedures.

**Did the Service(s) concur with the finding that the project is Not Likely to Adversely Affect?**

Yes, the Service(s) concurred with the finding.

🡪 *Based on the response, the review is in compliance with this section. Continue to Question 6 and provide the following:*

* 1. *A biological evaluation or equivalent document*
  2. *Concurrence(s) from FWS and/or NMFS*
  3. *Any other documentation of informal consultation*

No, the Service(s) did not concur with the finding. 🡪 *Continue to Question 5.*

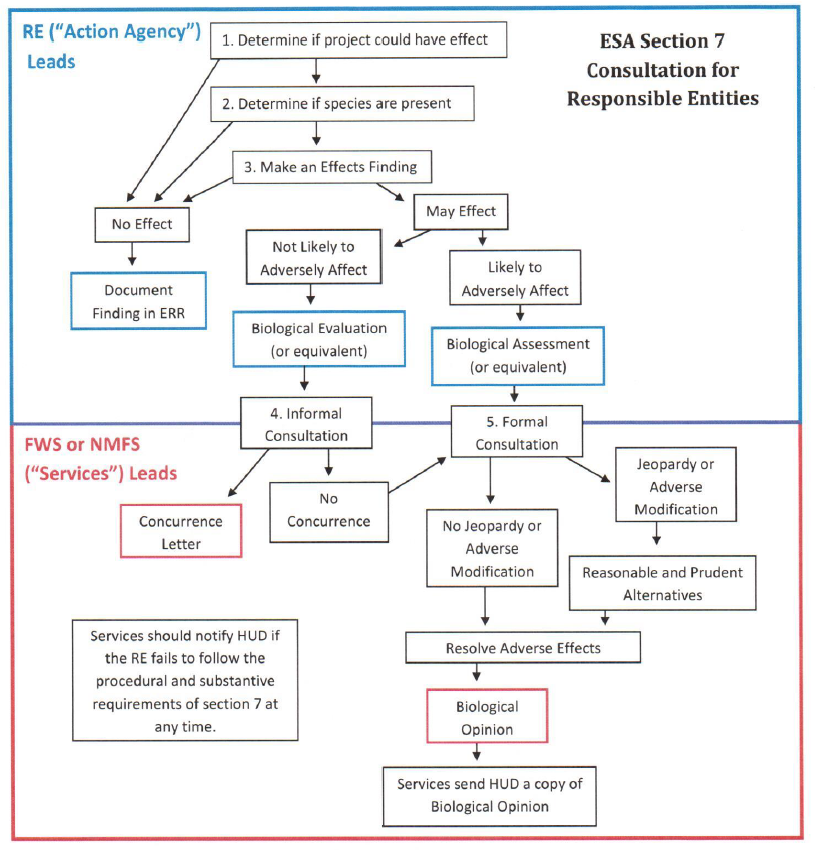
1. **Formal consultation is required**

Section 7 of ESA (16 USC 1536) mandates consultation to resolve potential impacts to federally listed endangered and threatened species and critical habitats. If a HUD assisted project may affect any endangered or threatened species or critical habitat, then compliance is required with Section 7. See 50 CFR Part 402 Subpart B Consultation Procedures.

🡪 *Once consultation is complete, the review is in compliance with this section. Continue to Question 6 and provide the following:*

1. *A biological assessment, evaluation, or equivalent document*
2. *Biological opinion(s) issued by FWS and/or NMFS*
3. *Any other documentation of formal consultation*
4. **For the project to be brought into compliance with this section, all adverse impacts must be mitigated. Explain in detail the proposed measures that will be implemented to mitigate for the impact or effect, including the timeline for implementation.**

* Document your determination in the statutory checklist and include any documentation of concurrence or biological assessments. Maintain all supporting documentation and correspondence with FWS/NOAA in your ERR.
* Communicate the mitigation requirements to the project architect or engineer and verify that the mitigation is incorporated into the project development.



# GREEN SHEET F.6

# Wild and Scenic Rivers

## Checklist

|  |  |  |
| --- | --- | --- |
| **General requirements** | Legislation | **Regulation** |
| Establishes a method for providing Federal protection for certain free-flowing and scenic rivers designated as components or potential components of the National Wild and Scenic Rivers System from the effects of construction. | The Wild and Scenic Rivers Act (Pub L. 90-542 as amended: 16 U.S.C. 1271-1287) | 24 CFR 58.5(f)  24 CFR 50.4(f) |

**1. Does the project include new construction, conversion of land use, major rehabilitation of existing structures, demolition, or the acquisition of undeveloped land?**

No: STOP here. The project is not subject to the Wild and Scenic Rivers Act

Yes: PROCEED to #2

1. **Is the Project within one mile of a designated Wild and Scenic River?**

If the project is more than a mile away from a designated river you can make a determination of “no effect.”

For a list of designated rivers by state, please visit the National Park Service website: <https://rivers.gov>

* Maintain documentation supporting your determination in your ERR. Documentation could include a printout of the list of rivers and a map identifying your site.

No: STOP here.

Yes: PROCEED to #3

1. **Will the Project have an effect on the designated River?**

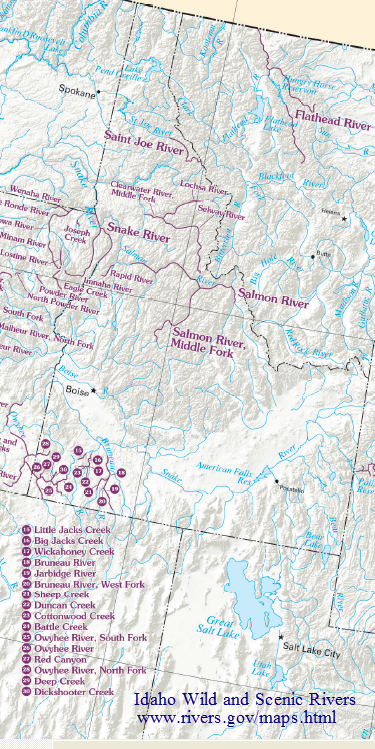
* Contact the National Park Service, Pacific West Region and request information on the Managing Agency of the river. Determine, with the Managing Agency, if the project will alter, directly or indirectly, any of the characteristics that qualifies the river for inclusion as a wild and scenic river.

No: STOP here.

* Maintain documentation concerning your determination of “No Effect” and verification from the Managing Agency.

Yes: Consult with the Managing Agency to assist in mitigation and resolution of issues.

* Prepare a determination based on the results of the mitigation and include it and verification from the Managing Agency’s concurrence in the ERR.



**GREEN SHEET F.7**

# Clean Air Act Compliance

## Checklist

|  |  |  |
| --- | --- | --- |
| **General requirements** | **Legislation** | **Regulation** |
| EPA requires federal actions to conform to State or Federal Action Plans for air quality. | Clean Air Act (42 U.S.C. 7401 et seq.) as amended | 40 CFR Parts 6, 51 and 93 |

**1. Does your project require an environmental assessment level review for new construction or major rehabilitation of existing structures?**

No: STOP here. The Clean Air Act conformity requirements do not apply.

* + Record your determination.

Yes: PROCEED to #2

**2. Is the project located in a designated non-attainment area for criteria air pollutants?**

* + Maintain, in your ERR, either a map or list of non-attainment areas in your region.

You can view maps of non-attainment areas by state at this website <https://www.epa.gov/>. Each state also maintains a regional list, please see attached contact information for details.

**No: STOP here. The Clean Air Act conformity requirements do not apply.**

* + Identify the project site on the Idaho air quality planning area map. Record your determination.

**Yes: PROCEED to #3**

1. **Does your project exceed de minimis impact criteria?** 
   * Determine if your project will result in emissions (both direct and indirect) that exceed the de minimis thresholds established for each criteria pollutant at 40 CFR Part 93.153 (see attached). In general, CDBG projects will not exceed this threshold. However, you should work with your local air quality authority to determine whether your project may have an impact on air quality. For PM-10 (dust and particulate matter) non-attainment areas, please make special note of any local dust control regulations that might apply during construction. Please see attached document for air authority contacts.

**No: STOP here. The project does not impact air quality.**

* + Record your determination on the Statutory Worksheet and attach documentation.

**Yes: PROCEED to #4**

1. **Does your project conform to the State or Federal Action Plan for air quality?**
   * Work with your local or state air quality authority to determine if your project conforms to your State Action plan. If you cannot reach this determination, please contact your HUD environmental officers for further guidance.

**Region 10 Idaho Air Toxics Partner**

**Idaho Department of Environmental Quality**  
1410 N. Hilton  
Boise, Idaho 83720

(208) 373-0457   
<http://www.deq.idaho.gov/air-quality/air-pollutants/>

TITLE 40--PROTECTION OF ENVIRONMENT

CHAPTER I--ENVIRONMENTAL PROTECTION AGENCY (CONTINUED)

PART 93--DETERMINING CONFORMITY OF FEDERAL ACTIONS TO STATE OR FEDERAL

IMPLEMENTATION PLANS--Table of Contents

Subpart B--Determining Conformity of General Federal Actions to State or Federal Implementation Plans

Sec. 93.153 Applicability.

(a) Conformity determinations for Federal actions related to transportation plans, programs, and projects developed, funded, or approved under title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 et seq.) must meet the procedures and criteria of 40 CFR part 51, subpart T, in lieu of the procedures set forth in this subpart.

(b) For Federal actions not covered by paragraph (a) of this section, a conformity determination is required for each pollutant where the total of direct and indirect emissions in a nonattainment or maintenance area caused by a Federal action would equal or exceed any of the rates in paragraphs (b)(1) or (2) of this section.

1. For purposes of paragraph (b) of this section, the following rates apply in nonattainment areas (NAA's):

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Tons/year

**Ozone** (VOC's or NOX):

Serious NAA's......................................................................... 50

Severe NAA's.......................................................................... 25

Extreme NAA's........................................................................ 10

Other ozone NAA's outside an ozone transport region.......... 100

Marginal and moderate NAA's inside an ozone transport region:

VOC......................................................................................... 50

NOX......................................................................................... 100

**Carbon monoxide**:

All NAA's................................................................................... 100

SO2 or NO2

All NAA's................................................................................... 100

**PM-10**:

Moderate NAA's....................................................................... 100

Serious NAA's............................................................................ 70

**Pb**:

All NAA's.................................................................................... 25

(2) For purposes of paragraph (b) of this section, the following rates apply in maintenance areas:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Tons/year

**Ozone** (NOX), SO2 or NO2

All Maintenance Areas............................................................... 100

**Ozone** (VOC's):

Maintenance areas inside an ozone transport region................ 50

Maintenance areas outside an ozone transport region............. 100

**Carbon monoxide**:

All Maintenance Areas............................................................... 100

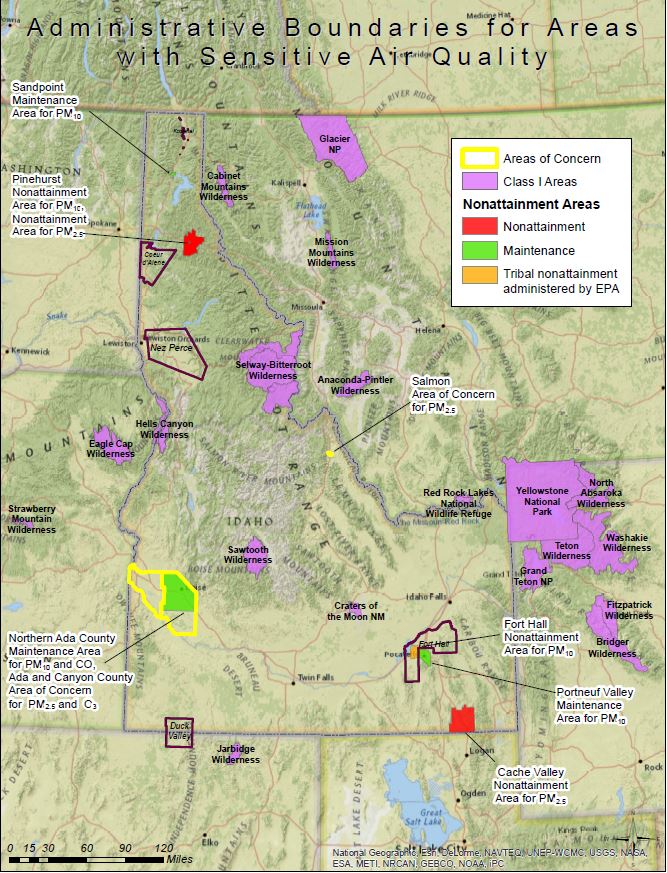
**PM-10**:

All Maintenance Areas............................................................... 100

**Pb**:

All Maintenance Areas................................................................ 25

Website:

<https://www.deq.idaho.gov/media/60183775/naa_classiareas-6.jpg> 

**GREEN SHEET F.8**

# Farmland Protection

## Checklist

|  |  |  |
| --- | --- | --- |
| **General requirements** | **Legislation** | **Regulation** |
| The Farmland Protection Policy Act discourages Federal activities that would convert farmland to nonagricultural purposes. | Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 et seq.) | 7 CFR Part 658 |

**1. Does your project include new construction, acquisition of undeveloped land or change in use of land or property.**

* + Maintain, in your ERR, a map of the project location, including zoning information.

**No: STOP here.**

* + The Farmland Protection Policy Act does not apply. Record your determination.

**Yes: PROCEED to #2**

**2. Does your project meet one of the following exemptions?**

* Construction limited to on-farm structures needed for farm operations.
* Construction limited to new minor secondary (accessory) structures such as a garage or storage shed
* Project on land used for water storage or already in or committed urban development (this includes land with a density of 30 structures per 40 acre area. It also includes lands identified as “urbanized area” (UA) on the Census Bureau Map, or as urban area mapped with a “tint overprint” on the USGS topographical maps, or as “urban built-up” on the USDA Important Farmland Maps. Please note that land “zoned” for development, i.e. non-agricultural use, does not exempt a project from compliance with the FPPA).

**Yes: STOP here. The Farmland Protection Policy Act does not apply.**

* + Record your determination
  + Maintain, in your ERR, documentation to evidence the project meets one of the exemptions. If the project is already in urban development, provide a map as described above with your site marked or documentation from another credible source.

**No: PROCEED to #3**

**3. Does “important farmland” regulated under the Farmland Protection Policy Act occur on the project site? This includes prime farmland, unique farmland and/or land of statewide or local importance.**

* “Prime farmland” is land that has the best combination of physical and chemical characteristics for producing food, feed, fiber, forage, oilseed, and other agricultural crops with minimum inputs of fuel, fertilizer, pesticides, and labor, and without intolerable soil erosion, as determined by the Secretary of Agriculture. Prime farmland includes land that possesses the above characteristics but is being used currently to produce livestock and timber. It does not include land already in or committed to urban development or water storage
* “Unique farmland” is land other than prime farmland that is used for production of specific high-value food and fiber crops, as determined by the Secretary. It has the special combination of soil quality, location, growing season, and moisture supply needed to economically produce sustained high quality or high yields of specific crops when treated and managed according to acceptable farming methods. Examples of such crops include citrus, tree nuts, olives, cranberries, fruits, and vegetables.
* Farmland of statewide or local importance has been determined by the appropriate State or unit of local government agency or agencies to be significant.

**You may use the links below to determine if important farmland occurs on the project site:**

* Utilize USDA Natural Resources Conservation Service’s (NRCS) Web Soil Survey <http://websoilsurvey.nrcs.usda.gov/app/HomePage.htm>
* Check with your city or county’s planning department and ask them to document if the project is on land regulated by the FPPA (zoning important farmland as non-agricultural does not exempt it from FPPA requirements)
* Contact NRCS at the local USDA service center <http://offices.sc.egov.usda.gov/locator/app?agency=nrcs> or your NRCS state soil scientist for assistance.

**No: STOP here. The project does not convert farmland to nonagricultural purposes.**

* + Record your determination on the Statutory Worksheet and attach documentation used to make your determination

**Yes: PROCEED to #4**

1. **Consider alternatives to completing the project on important farmland and means of avoiding impacts to important farmland.** 
   * Complete form AD-1006, “Farmland Conversion Impact Rating” <http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1045394.pdf> and contact the state soil scientist before sending it to the local NRCS District Conservationist. Work with NRCS to minimize the impact of the project on the protected farmland.
   * Return a copy of Form 1006 to the USDA-NRCS State Soil Scientist or his/her designee informing them of your determination once you have finished the analysis.
   * Record your determination on the Statutory Worksheet and attach documentation used to make your determination. Include any mitigation required in the review.

# GREEN SHEET F.9

# Environmental Justice

## Checklist

|  |  |  |
| --- | --- | --- |
| **General requirements** | **Legislation** | **Regulation** |
| Address disproportionately high and adverse human health or environmental effects on minority and low-income populations. | Executive Order 12898, February 11, 2004 | [24 CFR 50.4(l)](http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/cfr_2003/aprqtr/24cfr50.4.htm) and [24 CFR 58.5(j)](https://www.govinfo.gov/content/pkg/CFR-2004-title24-vol1/pdf/CFR-2004-title24-vol1-sec58-5.pdf). |

**1. Is there an adverse environmental impact caused by the proposed action, or is the proposed action subject to an adverse environmental impact?**

This question is designed to determine how the Environmental Justice analysis is reflected in the

environmental review as a whole. Your consideration of the other environmental laws and

authorities is your supporting documentation for this question. If any other environmental law or

authority required mitigation (i.e., 8-step process for locating in a flood plain, waiver of noise

requirements), then there is an adverse environmental impact.

**No: STOP here. The project does not pose an Environmental Justice concern.**

**Yes: PROCEED to #2**

**2. Will the project have a disproportionate impact on low-income or minority populations?**

The following steps will help you make this determination:

1. Describe the project.
2. Consider historic uses of the site, past land uses and patterns (such as lending discrimination and exclusionary zoning).
3. Determine the demographic profile of the people using the project and/or living and working in the vicinity of the project. EPA’s environmental justice geographic assessment tool provides helpful demographic information: <https://ejscreen.epa.gov/mapper/>
4. Describe the adverse environmental impact you identified in your environmental review. Identify adjacent land uses, paying particular attention to toxic sites, dumps, incinerators, hazardous materials (e.g. asbestos), and other issues with the potential to have adverse human health effects. (This may already have been considered in your review of toxic and hazardous substances.)
5. Consider how the adverse environmental impact and any potentially harmful adjacent land uses would impact the people using and/or surrounding the project.
6. Consider whether market-rate development exists in the area. If not, would this project succeed as a market-rate project at the proposed site?

**No: STOP here.**

* Maintain documentation concerning your determination of no disproportionate impact.

**Yes:**

* Consult with Commerce staff to develop a mitigation plan.
* An Environmental Justice mitigation plan must include: public outreach, participation and community involvement.
* The project cannot move forward until the EJ issue is mitigated to the satisfaction of Commerce or the Responsible Entity and the impacted community.

## GREEN SHEET F.10

## Noise Abatement and Control

**Checklist**

|  |  |  |
| --- | --- | --- |
| **General requirements** | **Legislation** | **Regulation** |
| Encourage land use patterns for housing and other noise sensitive urban needs that will provide a suitable separation between them and major noise sources | Noise Control Act of 1972  The Quiet Communities Act of 1978 as amended  OMB Circular 75-2, “Comparable Land Uses at Federal Airfields” | 24 CFR Part 51 Subpart B  Noise Guidebook |

**1. Is the project for new construction, purchase or resale of existing, modernization, or rehabilitation of noise sensitive use (i.e., housing, mobile home parks, nursing homes, hospitals, and other non-housing uses where quiet is integral to the project’s function, e.g., libraries)?**

No: STOP here. The project is not subject to the noise standards.

* Record your determination that the project is not subject to the noise standards in your ERR.

Yes: PROCEED to #2

1. **Is the project located within 1,000 feet of a busy road or highway, 3,000 feet of a railroad, or 15 miles of a civil airport or military airfield? Are there any other potential noise sources in the project vicinity that could produce a noise level above HUD’s acceptable range, including but not limited to concert halls, night clubs, event facilities, etc…. ?**

* Maintain, in your ERR, a map that identifies the location of any noise sources.

No: STOP here. Record your determination. You do not need to calculate a specific noise level.

Yes: PROCEED to #3

1. **Determine the actions to take based on the project and HUD Acceptability Standards.**

Is the activity for:

* Construction of new noise sensitive use. Calculate noise using HUD standards or online tool: <https://www.hud.gov/sites/documents/DOC_14196.PDF> **PROCEED to 3.a**
* Purchase or resale of otherwise acceptable existing buildings (existing buildings are either more than 1 year old or buildings for which this is the second or subsequent purchaser). Noise calculation not required. HUD or RE determines need based on their evaluation of project. **PROCEED to 3.b**
* Modernization. Noise calculation not required. HUD or RE determines need based on their evaluation of project. **PROCEED to 3.c**
* Major or substantial rehabilitation (use the definition contained in the specific program guidelines). Calculate noise using HUD standards or online tool: <https://www.hud.gov/sites/documents/DOC_14196.PDF> **PROCEED to 3.d**

|  |  |
| --- | --- |
| HUD General Acceptability Standards | |
| HUD determination | ***Day night average sound level in decibels (dB)*** |
| Acceptable | Not exceeding 65 dB |
| Normally Unacceptable | Above 65 dB but not exceeding 75dB |
| Unacceptable | Above 75 dB + |

**3a. New Construction**

**Is the Day-Night average sound level:**

Above 75 dB. **Construction of new noise sensitive uses is generally prohibited**, an EIS is required prior to the approval. The Assistant Secretary or Certifying Officer may waive the EIS requirement in cases where noise is the only environmental issue and no outdoor sensitive activity will take place on the site. (Under § Part 50 approval is required of the Assistant Secretary for CPD, under § Part 58 the Certifying Officer must provide approval). Document the ERR.

Above 65 dB but not exceeding 75 dB. **Construction of new noise sensitive uses is discouraged** – all new projects require special environmental reviews and may require special approvals prior to construction (except when the threshold has been shifted to 70 dB as described below). Information is provided at 51.104 (b)(1). Document ERR include the special review and approval. Document attenuation if approved.

Not exceeding 65 dB. (this threshold may be shifted to 70 dB on a case-by-case basis when 6 specific conditions are satisfied as described at Section 51.105(a)). Noise levels are acceptable. Document the ERR

**3b. Purchase or Resale of Existing Building**

**Is the Day-Night average sound level above the acceptable level?**

Yes. Consider environmental noise as a marketability factor when considering the amount of insurance or assistance that will be provided to the project?Noise exposure by itself will not result in the denial of HUD support for the resale and purchase of otherwise acceptable existing buildings. Record your determination in the ERR.

No: Record your determination in the ERR

**3c. Modernization**

**Is the Day-Night average sound level above the acceptable level?**

Yes. Encourage noise attenuation features in alterations. Record your determination in the ERR.

No: Record your determination in the ERR

**3d. Major or Substantial Rehabilitation**

**Is the Day-Night average sound level:**

Above 75 dB. HUD or the RE shall actively seek to have project sponsors incorporate noise attenuation features, given the extent and nature of the rehabilitation being undertaken and the level of exterior noise exposure and will strongly encourage conversion of the noise exposed sites to land uses compatible with the high noise levels. Document the ERR.

Above 65 dB but not exceeding 75 dB. HUD or the RE shall actively seek to have project sponsors incorporate noise attenuation features, given the extent and nature of the rehabilitation being undertaken and the level of exterior noise exposure Document ERR.

Not exceeding 65 dB. (this threshold may be shifted to 70 dB on a case-by-case basis when 6 specific conditions are satisfied as described at Section 51.105(a)). Noise levels are acceptable. Document the ERR.

# GREEN SHEET F.11

# Explosive and Flammable Operations

**Checklist**

|  |  |  |
| --- | --- | --- |
| **General requirements** | **Legislation** | **Regulation** |
| Establish safety standards that can be used as a basis for calculating acceptable separation distances for assisted projects. | Sec.2 Housing and Urban Development Act of 1969 (42 U.S.C. 1441 (a) | 1. FR Part 51 Subpart C |

1. **Does the project include construction, rehabilitation, or conversion?**

**\*Note - For rehabilitation projects, does the work increase residential densities, convert a building for habitation, or make a vacant building habitable?**

No: STOP here. The project is not subject to 24 CFR Part 51 C.

* Record your determination in your Environmental Review Record (ERR).

Yes: PROCEED to #2

1. **Are there explosive/flammable above ground storage tanks within 1 mile of the project site more than 100 gallons in size? (HUD’s stated position is that 24 CFR Part 51 C does not apply to storage tanks ancillary to the operation of the assisted 1-4 family residence, for example the home heating or power source. It does apply to all other tanks, including tanks for neighboring 1-4 family residences.)**

TIP: You do not have to consider all tanks at all sizes within 1 mile of your project. Screen further by determining the Acceptable Separation Distance for specific tank sizes and using that information to narrow your search.

No: STOP here. The project is not subject to 24 CFR Part 51 C.

* Record your determination that there are no storage tanks within one mile of the project site in your ERR. Maintain documentation supporting your determination in your ERR. Documentation could include a finding by a qualified data source (i.e. Fire Marshall etc…), copies of pictures, maps, and/or internet data.

Yes: PROCEED to #4 unless liquid propane then procced to #3

1. **For LPG propane only: Does the above ground storage tank(s) contain 1,000 gallons or more of LPG propane?**

Yes: PROCEED to #4

No: STOP here, but only if the LPG propane tank meets NFPA code 58 (2017). **See Illustration on the next page.** If the tank installation does not meet NFPA PROCEED to #4

1. **Is the Separation Distance from the project acceptable based on standards in 24CFR51C?**

* Use the online tool to calculate ASD: <https://www.hudexchange.info/environmental-review/asd-calculator/>
* or use the HUD guidebook, “Siting of HUD-assisted Projects near Hazardous Facilities (HUD-1060-CPD, Sept. 1996)”, also available on the web: <https://www.hud.gov/sites/documents/23383_EXPLOSIVE.PDF>

Yes: STOP here.

* Include maps and your separation distance calculations in your ERR.

No: PROCEED to #5

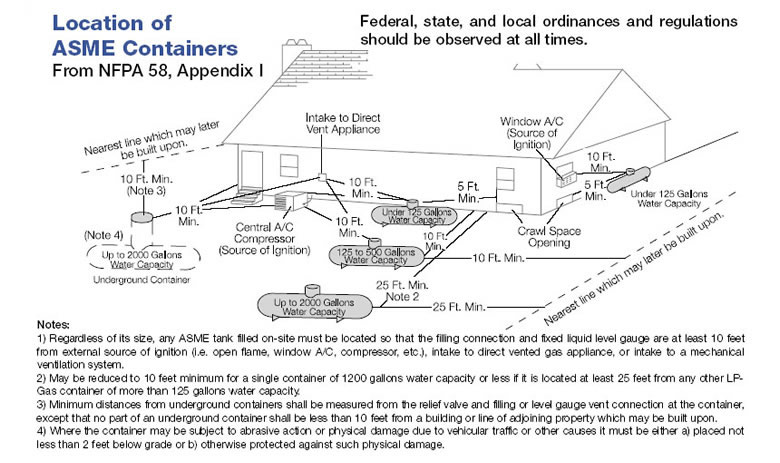
1. **With mitigation, can the Separation Distance become acceptable?**

No: PROJECT IS NOT ACCEPTABLE-DO NOT FUND

Yes: STOP here.

* Maintain documentation supporting your determination in your ERR. Documentation could include a finding by a qualified data source (i.e., Fire Marshall etc.), copies of pictures, maps, technical calculations and information describing the mitigation measures taken.

LPG Propane Tanks



# GREEN SHEET F.12

# Contaminated Soils

# (Toxic Chemicals, and Radioactive Materials)

**Checklist**

|  |  |  |
| --- | --- | --- |
| **General requirements** | **Legislation** | **Regulation** |
| All property proposed for use in HUD programs must be free of hazardous materials, contamination, toxic chemicals and gasses and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property. | Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended by Superfund Amendments and Reauthorization Act | 24 CFR 58.5(i) |

**You are required to consider all hazards that could affect the health and safety of occupants and use current techniques by qualified professionals to undertake investigations determined necessary. This checklist tool is intended as guidance only and does not cover all possible hazards. This document is subject to change.**

**1.** **Is the project for acquisition, new construction or rehabilitation of a one-to-four family residential property?**

Yes: PROCEED to #3 to determine the likelihood of hazardous conditions existing nearby or on the property which could affect the health and safety of proposed occupants.

No: PROCEED to #2

**2. Is the project for multifamily housing with 5 or more dwelling units (including leasing), or non-residential property?**

No: PROCEED to #3

Yes:

* The environmental review **must** include the evaluation of previous uses of the site or other evidence of contamination on or near the site, to assure that the occupants of proposed sites are not adversely affected by hazardous materials, contamination, toxic chemicals and gases, and radioactive substances.
* For acquisition and new construction projects, HUD strongly advises that the review include an ASTM Phase 1 assessment or equivalent analysis, including an update if the assessment is over 180 days old, in order to meet real estate transaction standards of due diligence. Your review should also cover the information in the questions below. **PROCEED to #3.**

1. **Is the answer Yes to any of the following questions?**

* Is the property or surrounding neighborhood listed on an EPA Superfund National **Priorities, the CERCLA List, or equivalent State list?**

An internet site that may be helpful is <https://www.epa.gov/superfund/search-superfund-sites-where-you-live>

<https://www.epa.gov/superfund/national-priorities-list-npl-sites-state#ID>

No  Yes

* Is the property located near a toxic or solid-waste landfill site?

Utilize EPA’s Enviro Mapper tool as well as maps, site inspections and documentation from the local planning department to make your determination.

No  Yes

* **Are there any underground storage tanks (not including residential fuel tanks) on or near the property?**

For projects in Idaho, visit: <http://www2.deq.idaho.gov/waste/ustlust/>

Consider past uses of the property when making your determination.

No  Yes

* **Is the property known or suspected to be contaminated by toxic chemicals or radioactive materials?**

No  Yes

HUD’s “Choosing an Environmentally ‘Safe Site” provides guidance in considering potential environmental issues: <https://archives.hud.gov/funding/2006/SafeSitePub.pdf>

In considering the site, the guidance suggests that you:

* Make a visual inspection of the site for signs of distressed vegetation, vents or fill pipes, storage/oil tanks or questionable containers, pits, ponds or lagoons, stained soil or pavement, pungent, foul or noxious odors, dumped material or soil, mounds of dirt, rubble, fill etc.
* Research the past uses of the site and obtain a disclosure of past uses from the owner.Certain past and present uses such as the following signal concerns of possible contamination and require a more detailed review: gasoline stations, vehicle repair shops, car dealerships, garages, depots, warehouses, commercial printing facilities, industrial or commercial warehouses, dry cleaners, photo developing laboratories, hospitals, junkyard or landfills, waste treatment, storage disposal, processing or recycling facilities, agricultural/farming operations (including hog and poultry operations) and tanneries.
* Identify adjoining properties in the surrounding area for evidence of any facilities as described above.
* Research Federal, State and local records about possible toxins and hazards at the site.

Yes to any of the above questions: PROCEED to #4

No to all questions: The toxic chemicals and radioactive materials review is complete, unless there are other hazards that could affect the health and safety of occupants.

* Record your determination on the Statutory Worksheet and maintain appropriate documentation in the ERR.

1. Could nearby toxic, hazardous or radioactive substances affect the health and safety of project occupants or conflict with the intended utilization of the property?

* Gather all pertinent information concerning any on-site and nearby toxic hazards. Consider, at a minimum, each of the areas identified in Question 3. Consider if your ASTM Phase 1 or equivalent analysis identifies any Recognized Environmental Conditions (RECs)?
* If appropriate and/or required, obtain independent professional reviews of the site (e.g., an ASTM Phase 2 or equivalent analysis). Contact appropriate Federal, State and Local resources for assistance in assessing exposure to health hazards.

Yes: PROCEED to #5.

No: The toxic chemicals and radioactive materials review is complete, unless there are other hazards that could affect the health and safety of occupants.

* Record your determination that there are no hazards that could affect the safety of occupants or impact the intended use of the project and maintain appropriate documentation in the ERR.

**5. Can the adverse environmental condition be mitigated?**

Yes:

* Mitigate according to the requirements of the appropriate Federal, State or local oversight agency.
* Record your determination that there are no hazards that could affect the safety of occupants or impact the intended use of the project and maintain appropriate documentation in the ERR.

* HUD assistance should be conditioned on completion of appropriate mitigation.
* Deny HUD assistance if, after mitigation, the property is still determined to be unsafe or unhealthy. For more details please refer to HUD’s “Choosing an Environmentally ‘Safe’ Site.”

No: Do not provide HUD assistance for the project at this site.

# GREEN SHEET F.13

# Clear Zones (CZ) and Accident Potential Zones (APZ)

## Checklist

|  |  |  |
| --- | --- | --- |
| **General requirements** | **Legislation** | **Regulation** |
| Promote compatible land uses around civil airports and military air fields. | Section 2 of the Housing Act of 1949 as amended, 42 U.S.C. 1331, affirmed by Section 2 of the Housing and U  rban Development Act of 1969, P.L. No 90-448; Section 7(d) of the Dept of HUD Act of 1965, 42 U.S.C. 3535(d) | 24 CFR Part 51 Subpart D  32 CFR Part 256 |

**1. Is the Project located within 2,500 feet of a civil airport or within 15,000 feet of a military airfield?**

* Maintain in your ERR a map that identifies airports. The regulations only apply to military and civil primary and commercial service airports. The Federal Aviation Administration updates the list of applicable airports annually:

<https://www.faa.gov/airports/planning_capacity/passenger_allcargo_stats/categorie/>

No: STOP here. The project is not within a Clear Zone (also known as Runway Protection Zone) or Accident Potential Zone.

* Record your determination.

Yes: PROCEED to #**2**

**2.** **Is the project in the CZ or APZ?**

* Contact the airport operator and obtain written documentation of the Clear Zone (also known as Runway Protection Zone) and for military airfields, the Accident Potential Zone, and a determination of whether your project is in the APZ or CZ.

No: STOP here.

* Record your determination that the project is not in a CZ or APZ.

Yes: PROCEED to #3.

**3. For Civil and Military Airports, is the activity for new construction, major rehabilitation\*, or any other activity which significantly prolongs the physical or economic life of existing facilities? For APZs at military airfields, does the project change the use of a facility so that it becomes one which is no longer acceptable in accordance with Department of Defense standards, (please see 32 CFR Part 256 for *Land Use Compatibility Guidelines for Accident Potential Zones*), significantly increase the density or number of people at the site, or introduces explosive, flammable or toxic materials to the area?**

No: STOP here. The project is not subject to the regulation.

* Record your determination.

Yes: Proceed to #4.

**4. Will the project frequently be used or occupied by people?**

Yes: STOP here. The project cannot be assisted with HUD funds. STOP HERE.

No:

* Obtain written assurance from the airport operator to the effect that there are no plans to purchase the land involved with the project as a portion of a Runway Clear Zone or Clear Zone acquisition program.
* Maintain copies of all of the documents you have used to make your determination.

**\*Rehabilitation is major when the estimated cost of the work is 75% or more of the total estimated cost of replacement after rehab (please see 24 CFR Part 58.35(a) for complete definition of major rehabilitation thresholds.)**