

Environmental Review Guide for Community Development Block Grant Programs

CHECKLISTS

Compliance Documentation Checklist (24 CFR 58.6) Statutory Checklist (24 CFR §58.5 Statutes, Executive Orders & Regulations) Environmental Assessment Checklist

The Statutory Checklist covers statutes, regulations, and Executive Orders, other than NEPA to which every project subject to 24 CFR 58 review must respond, unless it is exempt or categorically excluded under 24 CFR 58.35(b). A listing of activities that a project can include to be exempt from the environmental requirements of NEPA and other related authorities, such as administrative actions, planning and environmental studies is found in 24 CFR 58.34.

If the project is categorically excluded from NEPA procedures under 24 CFR 58.35(a), this is the only checklist that applies. If the project is not exempt or categorically excluded, then the Statutory Checklist should be completed in conjunction with the Environmental Assessment Checklist. The Environmental Assessment Checklist helps to organize an early consideration of numerous environmental issues. Together they become companion documents, with the Environmental Assessment Checklist recording anticipated impacts and the Statutory Checklist documenting compliance with laws and regulations.

Statutory Checklist

This checklist covers Federal laws, regulations, and Executive Orders (see 24 CFR 58.5 and 58.6). In some cases, compliance means that the grant recipients must follow detailed procedures required by the particular law, regulations, or Executive Order.

Findings presented in the Statutory Checklist include:

Not Applicable to this Project – Check here, only when it is known that the project is located in an area where the environmental condition or resource is nonexistent (e.g., project is not located near a coastal zone or near a wild & scenic river).

Consultation/Review Procedures Required – This determination requires that there has been coordination with the appropriate individuals at Federal or federally authorized agencies and those interactions documented through attached notes and correspondence. (e.g., completion of the 106 procedure of the Advisory Council on Historic Preservation).

Determination of Consistency, Approvals and Permits Obtained – (e.g., consistency with state coastal zone management plan). In areas requiring consistency or where projects required Federal permits, licenses or other forms of approval, such requirements should be recorded here as having been met or required procedures followed. Any condition, temporary permit or partial approval is recorded in the next column to a document recorded in the ERR.

Conditions or Mitigation Actions Required – These should be listed and attached including any correspondence from reviewing agencies and a designation of responsibility for implementation.

For each Checklist category there may be more than one applicable law or regulation. For example, in the case of water it will be necessary to indicate that the project is in compliance with the Safe Drinking Water Act and that the various water acts and regulations have been considered. Check all applicable laws or regulations.

In addition, there is space provided on the Checklist form to document compliance with the applicable law, regulation, or Executive Order and to indicate sources of information and reference that support the finding. Notes, correspondence and documents (e.g., approval letters, permits) can also be attached to the Checklist.

It is recommended that state or local environmental laws or regulations be added to the Statutory Checklist as applicable to a particular community. Space has been provided to do so on this form. In addition, new federal statutes and regulations should be added when issued.

Grant recipients are reminded that they must certify that they have complied with the obligations and requirements of all other applicable laws and authorities.

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Environmental Assessment Checklist

For all CDBG projects subject to NEPA procedures, the Environmental Assessment Checklist is a valuable step in that analysis. Completion of this Checklist constitutes a quick, yet well documented review of environmental issues surrounding a specific project or group of projects and a decision as to how to proceed in further analysis.

Purpose

The major purpose of the Checklist is to allow a more detailed analysis to focus of those categories of potential significant impact. This can avoid a lot of wasted energy in data collection, analysis and report writing for these categories which have no potential for significant impacts and require no mitigation efforts or ones for which the analyst has already done the work on previous projects. Assuming there is a file of solid environmental information about the community, the Checklist is intended to be filled out in a few hours – no more than a day even for projects with many potential effects. More time may be needed later for thorough analysis where the Checklist review indicates either potential impacts or where insufficient data is readily available. Judgments at this stage should be based upon available data with perhaps the addition of a few well placed phone calls or a site visit if the area is unfamiliar to the analyst.

Organization

The Environmental Assessment Checklist covers seven major impact areas and 36 specific impact categories within those seven areas. The seven general areas represent categories with related and overlapping issues, shared data sources and similar requirements as to background for analysis. The presentation of a detailed list of 36 impact categories is provided to jog the memory of the reviewer, raise questions and assure that all potential impacts are considered. Note that some impact categories are also included on the Statutory Checklist. A project may be in compliance with the provisions of a specialized law, regulation or Executive Order and still have an impact. For example, a site for a residential use may not be subjected to unacceptable noise levels and, therefore, be in compliance. If, however, the site will be used for an activity which will produce high levels of noise (short or long term), this may have an impact on the surrounding area and should be considered when completing the Environmental Assessment Checklist. If, however, it is determined that the subject has been covered adequately on the Statutory Checklist, this should be noted in the space provided for documentation, and no further analysis is required for that environmental factor.

How to Complete

For each impact category the local environmental analyst is asked to check the appropriate box relating to potential impacts, needed study, and mitigation or modification. In many cases more than one box could be or should be checked. In each case a source should be cited which may be a report, phone contact, previous ERR, field observation, or general knowledge of the area. The determinations to be made for each impact category include:

No Impact Anticipated – A checkmark here indicates no more analysis or mitigation effort is needed. Clear and specific documentation is essential, referencing the factual conditions or specific circumstances that support the finding. Mere conclusions are not sufficient.

Minor Impact Anticipated – Beneficial or adverse impacts should be indicated here. Notations supporting that finding can be attached. A more detailed analysis is not necessary. In some cases, this quick review may be all that is needed to evaluate impacts. They may be so small as to require no more study; they may be construction effects only for which standard mitigation procedures have been established; or they may have been analyzed for previous assessments in a fully comparable situation.

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Major Impact Anticipated – Again, major impacts may be beneficial or adverse. Both need to be considered. Documentation here is particularly important and will require attached notes outlining sources explaining the factual basis of the impact finding and describing any mitigation efforts. If this is checked, the impact category in question will be subject to a detailed review (site visits, review of data, consultation with experts, etc.). The points to remember are that (1) only those categories with a check in this box need to be subject to a detailed assessment and (2) this is not a decision about EIS preparation but a decision to investigate further.

Needs Mitigation or Modification– This column should be used in combination with the prior columns indicating some type of potential adverse impact. In some cases specific measures to reduce adverse effects on a community cannot be discussed in full detail right away. Instead, such measures are subject to review and development and implementation responsibility as part of a more detailed analysis which follows. In other cases mitigation measures may be known and recorded. Mitigation measures or safeguards should be listed for easy reference on page 4 of the checklist. Early project review, affords a special opportunity to identify needed changes in the project itself before final applications are made or programs finalized. Often such changes can eliminate the need for further analysis by eliminating the source of the problem. It is also possible that changes (such as moving a project to a different site outside a high noise zone, or combining it with a new project to provide needed sewer or water lines) could be identified at this time.

In addition to these early decisions as to potential impact or mitigation needs, the Checklist calls for sources or contacts to be identified which have contributed to the decision in a specific impact category. This may be done in the space provided, or more likely by reference to attached notes which indicate sources or contacts and describe considerations made. On pages 3 and 4 of the Checklist, the analyst is asked to look back over the individual decisions made and draw some conclusions for further action. This includes a listing of project modifications, impact categories requiring more study and mitigation efforts needed.

Based on the conclusions of the environmental assessment, on the last page of the Checklist, the preparer will state his or her finding as to whether or not the request for release of funds for the project will constitute an action significantly affecting the quality of the human environment.

Compliance Documentation Checklist

24 CFR 58.6

PROJECT NAME / DESCRIPTION: _____

Level of Environmental Review Determination: _____

Select One: (1) Exempt per 24 CFR 58.34, or (2) Categorically Excluded not subject to statutes per § 58.35(b), or (3) Categorically Excluded subject to statutes per § 58.35(a), or (4) Environmental Assessment per § 58.36, or (5) EIS per 40 CFR 1500

STATUTES and REGULATIONS listed at 24 CFR 58.6

FLOOD DISASTER PROTECTION ACT

1. Does the project involve acquisition, construction or rehabilitation of structures located in a FEMA-identified Special Flood Hazard?

No; Cite Source Document:

Yes; Source Document: _____

2. Is the community participating in the National Insurance Program (or has less than one year passed since FEMA notification of Special Flood Hazards)?

Yes (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). (**Appendix I**)

No (**Federal assistance may not be used in the Special Flood Hazards Area**).

COASTAL BARRIERS RESOURCES ACT

1. Is the project located in a coastal barrier resource area?

No; Cite Source Documentation:

(This element is completed).

Yes - **Federal assistance may not be used in such an area.**

AIRPORT RUNWAY CLEAR ZONES AND CLEAR ZONES DISCLOSURES

1. Does the project involve the sale or acquisition of existing property within a Civil Airport's Runway Clear Zone or a Military Installation's Clear Zone?

No; Source Documentation:

Project complies with 24 CFR 51.303(a)(3).

Yes; **Disclosure statement must be provided** to buyer and a copy of the signed disclosure must be maintained in this Environmental Review Record (**Appendix II**)

Prepared by (name and title, please print): _____, _____

Signature: _____

Date: _____

STATUTORY CHECKLIST

24 CFR §58.5 STATUTES, EXECUTIVE ORDERS & REGULATIONS

Project Name: _____

Project Description (Include all actions which are either geographically or functionally related):

Location: _____

This project is determined to be categorically excluded according to: [Cite section(s)] _____

Compliance Factors:

Statutes, Executive Orders, and
 Regulations listed at 24 CFR §58.5

N/A	Consultation, Review, Permits Required	Consistency Determination	Condition, Mitigation
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Compliance Documentation

Appendix III

Historic Preservation [36 CFR Part 800]					
Floodplain Management [24 CFR 55, Executive Order 11988]					
Wetland Protection [Executive Order 11990]					
Coastal Zone Management Coastal Zone Management Act [Sections 307(c), (d)]					
Water Quality Safe Drinking Water Act (42 USC 201, 300(f) & 21 U.S.C. 349)					
Sole Source Aquifers [40 CFR 149]					
Fish and Wildlife Endangered Species Act [50 CFR 402]					
Wild and Scenic Rivers Wild and Scenic Rivers Act [Sections 7(b), and (c)]					
Clean Air Clean Air Act [Sections 176(c), (d), and 40 CFR 6, 51, 93]					
Farmland Protection Farmland Protection Policy Act					

Compliance Factors:
 Statutes, Executive Orders, and
 Regulations listed at 24 CFR §58.5

N/A Consultation, Consistency Condition,
 Review, Determination Mitigation
 Permits
 Required

Compliance Documentation
Appendix III

[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)]					
Airport Clear Zones and Accident Potential Zones [24 CFR 51D]					
Solid Waste Disposal					
State/Local Statutes					

PREPARER SIGNATURE: _____

DATE: _____

PREPARER NAME: _____

RESPONSIBLE ENTITY AGENCY

OFFICIAL SIGNATURE: _____

DATE: _____

NAME, TITLE: _____

Environmental Assessment Checklist

Project Name and Identification No. _____

Impact Categories	IMPACT ANTICIPATED			REQUIRES MITIGATION OR MODIFICATION	NOTE CONDITIONS AND/OR SOURCE DOCUMENTATION THAT SUPPORTS FINDING REFERENCE NOTES
	NONE	MINOR	MAJOR		
Land Development					
Conformance with Comprehensive Plans and Zoning					
Compatibility and Urban Impact					
Slope					
Erosion					
Soil Suitability					
Hazards and Nuisances Including Site Safety					
Energy Consumption					
Noise					
Effects of Ambient Noise on Project and Contribution to Community Noise Levels					
Air Quality					
Effects of Ambient Air Quality on Project and Contribution to Community Pollution Levels					
Environmental Design, Historic Values and Urban Impact					
Visual Quality Coherence, Diversity, Compatible Use and Scale					
Historic, Cultural and Archaeological Resources					

Environmental Assessment Checklist

Impact Categories	IMPACT ANTICIPATED			REQUIRES MITIGATION OR MODIFICATION	NOTE CONDITIONS AND/OR SOURCE DOCUMENTATION THAT SUPPORTS FINDING REFERENCE NOTES
	NONE	MINOR	MAJOR		
Socioeconomic					
Demographic Character Changes					
Displacement					
Employment and Income Patterns					
Community Facilities and Services.					
Educational Facilities					
Commercial Facilities					
Health Care					
Social Services					
Solid Waste					
Waste Water					
Storm Water					
Water Supply					
Public Safety	Police				
	Fire				
	Emergency Medical				
Open Space and Recreation	Open Space				
	Recreation				
	Cultural Facilities				
Transportation					

Environmental Assessment Checklist

Impact Categories	IMPACT ANTICIPATED			REQUIRES MITIGATION OR MODIFICATION	NOTE CONDITIONS AND/OR SOURCE DOCUMENTATION THAT SUPPORTS FINDING REFERENCE NOTES
	NONE	MINOR	MAJOR		
Natural Features					
Water Resources					
Surface Water					
Floodplains					
Wetlands					
Coastal Zone					
Unique Natural Features and Agricultural Lands					
Vegetation and Wildlife					

Summary of Findings and Conclusions

Summary of Environmental Conditions

Environmental Assessment Checklist

ALTERNATIVES

Determine and describe possible alternatives to the proposed project, including the alternative of not implementing the project. The feasibility of each alternative and the reasons why each should be adopted or rejected should be discussed sufficiently to indicate that an adequate consideration of each alternative has occurred.

Alternative 1

Alternative 2

COMPARATIVE ANALYSIS: Local and area-wide plans that demonstrate environmental considerations can serve as the context within which a comparison of alternative sites is made (i.e. by a project's consistency with the environmental criteria for site selection as may be established with such plans).

Additional Studies Performed (Attach Study or Summary)

Mitigation Measures Needed:

Environmental Assessment Checklist

- 1. Is project in compliance with applicable laws and regulations? Yes No
- 2. Is an EIS required? Yes No
- 3. Finding of No Significant Impact (FONSI) can be made. Project will not significantly affect the quality of the human environment. Yes No

Prepared By: _____

Title: _____

Date: _____

Reviewed By: _____

Title: _____

Date: _____

FLOOD INSURANCE PROTECTION

Duration of Flood Insurance Coverage. The statutory period for flood insurance coverage may extend beyond project completion. For loans, loan insurance or guaranty, flood insurance coverage must be continued for the term of the loan. For grants and other non-loan forms of assistance, coverage must be continued for the life of the property, regardless of transfer of ownership of such property. Section 582(c) of the Community Development and Regulatory Improvement Act of 1994 mandates that "...The requirement of maintaining flood insurance shall apply during the life of the property, regardless of transfer of ownership of such property." (42 U.S.C. 5154a)

Such anticipated economic or useful life of the property may vary with the nature of the assisted activity. For example, construction of a new or substantially improved building requires flood insurance coverage for the life of the building, while for minor rehabilitation such as repairing, weatherizing, or roofing of a building, the grantee may require flood insurance coverage ranging from five to fifteen years as deemed feasible. HUD will accept any period within that range that appears reasonable.

Dollar Amount of Flood Insurance Coverage. For loans, loan insurance or guaranty, the amount of flood insurance coverage need not exceed the outstanding principal balance of the loan. For grants and other forms of financial assistance, the amount of flood insurance coverage must be at least equal to the development or project cost (less estimated land cost) or to the maximum limit of coverage made available by the Act with respect to the particular type of building involved (SF-Single Family, OR-Other Residential, NR-Non Residential, or SB-Small Business), whichever is less. The development or project cost is the total cost for acquiring, constructing, reconstructing, repairing or improving the building. This cost covers both the Federally assisted and the non-Federally assisted portion of the cost, including any machinery, equipment, fixtures, and furnishings. If the Federal assistance includes any portion of the cost of any machinery, equipment, fixtures or furnishings, the total cost of such items must also be covered by flood insurance.

Proof of Purchase. The standard documentation for compliance with Section 102 (a) is the Policy Declarations form issued by the National Flood Insurance Program or issued by any property insurance company offering coverage under the National Flood Insurance Program. The insured has its insurer automatically forward to the grantee in the same manner as to the insured, information copies of the Policy Declarations form for verification of compliance with the Act. Any financially assisted SFHA building lacking a current Policy Declarations form is in Noncompliance.

Grantee's Evidence of Compliance under the Certification. The grantee must maintain a complete and up-to-date listing of its on-file and current Policy Declarations for all financially assisted SFHA buildings. As a part of the listing, the grantee should identify any such assisted building for which a current Policy Declarations form is lacking and attach a copy of the written request made by the grantee to the owner to obtain a current Policy Declarations form.

NOTICE TO PROSPECTIVE BUYERS OF PROPERTIES
LOCATED IN RUNWAY CLEAR ZONES
AND CLEAR ZONES/ACCIDENT POTENTIAL ZONES

(In accordance with 24 CFR Part 51, Section 51.303(a)(3), this notice must be given to anyone interested either in buying an existing HUD property, or using HUD assistance to buy an existing property, which is located in either a Runway Clear Zone at a civil airport or a Clear Zone/Accident Potential Zone at a military installation.)

The property which you are interested in purchasing at _____ is located in the Runway Clear Zone/Clear Zone/Accident Potential Zone for _____.

Studies have shown that if an accident were to occur it is more likely to occur within the Runway Clear Zone/Clear Zone/Accident Potential Zone than in other areas around the airport/airfield. Please note that we are not discussing the chances that an accident will occur, only where one is most likely to occur.

You should also be aware that the airport/airfield operator may wish to purchase the property at some point in the future as part of a Runway Clear Zone/Clear Zone/Accident Potential Zone acquisition program. Such programs have been underway for many years at airports and airfields across the country. We cannot predict if or when this might happen since it is a function of many factors, particularly the availability of funds, but it is a possibility.

We wanted to bring this information to your attention. Your signature on the space below indicates that you are now aware that the property you are interested in is located in a Runway Clear Zone/Clear Zone/Accident Potential Zone.

Signature of prospective buyer

Date

Type or print name of prospective buyer

(This notice must be maintained as part of the file on this action.)

Statutory Checklist

A. Are all the project's activities exempt under 58.34(a)(1)-(11) and/or Categorically Excluded (CE) from NEPA procedures under 58.35(b)? Yes No.

If "Yes" attach supporting documentation including citations to applicable subsection of 58.34(a)(1)-(11) or 58.35(b) and complete Other Requirements Checklist (58.6). Sign and date certification and keep in the project ERR. Remaining portions of the Checklist need not be completed. Do not initiate RROF procedures. Funds may be obligated for this project.

If "No" proceed to question B.

B. Perform all relevant compliance requirement reviews of the Statutory Checklist and complete all columns as appropriate, sign and date form.

1. Is this a 58.35(a) CE Project? Yes No.

If "Yes", document by specific reference(s) to Part 58.35(a) how this project qualifies as a 58.35(a) CE project and respond to question B2.

If "No" then go to question C.

2. Does the project trigger a 58.5 Compliance Threshold? Yes No.

If "Yes" then initiate RROF procedures, beginning with publication/posting of RROF Notice.

If "No"; project may be reclassified as exempt under 58.34(a)(12); do not initiate RROF procedures, and funds may be obligated after signing and dating this form and completing Compliance Documentation Checklist.

C. If No to B (1), then this project requires an Environmental Assessment (EA)

Fill out the Environmental Assessment Checklist and document all determinations as necessary and appropriate. Sign and date.

Even if an EA has already been completed, 24 CFR Part 58, Subpart H procedures, beginning with publication/posting of FONSI/RROF Notice, cannot be initiated until all 58.5 and 58.6 determinations and compliance processes have been completed. Some CE projects may require an EA or an EIS because of their environmental effect.

COMPLIANCE THRESHOLDS

Historic Properties (including archeology):

A) The RE and SHPO agree that there are No Historic Properties Affected per 36 CFR 800.4, no adverse effects on historic properties per §800.5(b), or SHPO has not objected within 30 days to such fully documented determinations.

B) The proposal has an adverse effect on historic properties. Consult with SHPO et al., per §800.5 et seq., to resolve or mitigate adverse effects.

* The National Historic Preservation Act of 1966 (16 U.S.C. 470f *et seq.*): as amended: particularly section 106 (16 U.S.C. 470f): except as provided in ' 58.17 of this part for section 17 projects.

* Executive Order 11593. Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921 *et seq.*): particularly section 2(c).

* The Reservoir Salvage Act of 1960 (16 U.S.C. 469 *et seq.*) particularly section 3 (16 U.S.C. 469a-1): as amended

* The Archeological Historic Preservation Act of 1974.

Floodplain Management:

A) The project does not involve property acquisition, management, construction or improvements within (or will impact) a 100 year floodplain (Zones A or V) identified by FEMA maps, and does not involve a "critical action" (e.g., emergency facilities, facility for mobility impaired persons, etc.) within a 500 year floodplain (Zone B). If FEMA has not published flood maps, the RE must make a finding based on best available data, e.g. from the City/County Engineer or local Flood Control Agency.

B) Complete the 8-step decision making process according to 24 CFR Part 55.20 to document that there are no practicable alternatives to the proposal and to mitigate effects of the project in a floodplain.

* Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 *et seq.*) as amended: particularly sections 102(a) (42 U.S.C. 4012a (a) and 4106 (a).

* Executive Order 11988. Floodplain Management, May 24, 1977 (42 FR28931 *et seq.*): particularly section 2(a).

Statutory Checklist

COMPLIANCE THRESHOLDS (continued)

Wetlands Protection:

A) The project does not involve new construction within or adjacent (or will affect) to wetlands, marshes, wet meadows, mud flats or natural ponds per field observation and maps issued by the USDI Fish & Wildlife Service or U.S. Corps of Engineers.

B) Complete the 8-step decision making process in 24 CFR 55.20 to document there are no practicable alternatives and to mitigate effects of the project on wetlands. Such action also requires obtaining a permit from the U.S. Corps of Engineers under Section 404 of the Clean Water Act.

* Executive Order 11990. Protection of Wetlands. May 24, 1977 (42 FR 28951 *et seq.*): particularly section 2 and 5.

Coastal Zone Management:

A) The project does not involve the placement, erection or removal of materials, nor an increase in the intensity of use in the Coastal Zone (CZ) per certified local coastal plan, California Coastal Commission, SF BCDC, etc.

B) Secure concurrence from the CZ Commission or delegated local planning commission with your determination of consistency with the applicable CZ Plan, or obtain coastal zone permit.

* The Coastal zone Management Act of 1972 (16 U.S.C. 1451 *et seq.*) as amended: particularly section 307 (c) and (d) (16 U.S.C. 1456 (c) and (d)).

* The Coastal Barrier Resources Act of 1982 (16 U.S.C. 3501 *et seq.* particularly sections 5 and 6 (16 U.S.C. 3504 and 3505).

Sole Source Aquifers (Safe Drinking Water Act):

A) The project is not located within a U.S. EPA-designated sole source aquifer watershed area per EPA Ground Water Office, **OR** the project need not be referred to EPA for evaluation according to the HUD-EPA (Region IX) Sole Source Aquifer Memorandum of Understanding of 1990.

B) Consult with the Water Management Division of EPA to design mitigation measures to avoid contaminating the aquifer and implement appropriate mitigation measures.

* The Safe Drinking Water Act of 1974 (42 U.S.C. 201.300 (f) *et seq.* and 21 U.S.C. 349) as amended: particularly section 1424(e) (42 U.S.C.300b-303(e)).

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) Request evaluation of land type from the NRCS using Form AD-1006, and consider the resulting rating in deciding whether to approve the proposal, as well as mitigation measures (including measures to prevent adverse effects on adjacent farmlands).

* Farmland Protection Policy Act of 1961 (7 U.S.C. 4201 *et seq.*) particularly section 1540(b) and 1541 (7U.S.C. 4201 and 4242).

Endangered Species:

A) The RE determines that the proposal will have “no effect” **or** “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. This finding is to be based on contact made with the U.S. Fish and Wildlife Service and/or with State Department of Fish and Game, or by special study completed by a professional biologist or botanist and approved by the above agency. Only a determination of “no effect” does not require being sent to U.S. FWS for concurrence.

B) Consult with the U.S. FWS or with the National Marine Fisheries Service, in accordance with procedural regulations contained in 50 CFR Part 402. Formal consultation with FWS or NMFS is always required for federally funded “major construction” activities and anytime a “likely to adversely affect” determination is made.

* The Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.* as amended: particularly Section 7 (b) and (c) (16 U.S.C. 1278 (b) and (c)).

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) Consult with the U.S. Department of Interior, National Park Service for impact resolution and mitigation.

* The Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 *et seq.*) as amended: particularly section 7 (b) and (c) (16 U.S.C. 1278 (c) and (d)).

Statutory Checklist

COMPLIANCE THRESHOLDS (continued)

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 the State Air Quality Management District or Board, **AND** the project requires no individual NESHAP permit or notification;

B) Negotiate suitable mitigation measures with the Air Quality Management District or Board, 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).

* The Clean Air Act (42 U.S.C. 7401 *et seq.*) as amended: particularly section 176 (c) and (d) (42 U.S.C. 7308 (c) and (d))

Noise Abatement and Control:

A) The project does not involve development of noise sensitive uses, **OR** the project is not within 1,000 feet of a major or arterial roadway, 3,000 feet of a railroad, or 15 miles from a major (listed) airport **OR** ambient noise level is documented to be 65 LDN (CNEL) or less, based upon the HUD Noise Assessment Guidelines (NAG) for calculating noise levels and Airport Noise Contour map;

B) Apply the noise standard, per 24 CFR §51.101, to the decision whether to approve the proposal (see §51.104), and implement noise attenuation measures (NAG page 39-40) as applicable.

* Environmental Criteria and Standards (24 CFR Part 51) and Site Contamination.

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 “Siting of HUD-Assisted Projects Near Hazardous Facilities” (Appendices F & G, pp. 51-52), **OR** the project will expose neither people nor buildings to such hazards;

B) mitigate the blast overpressure or thermal radiation hazard with the construction of a barrier of adequate size and strength to protect the project (per 24 CFR 51.205).

* Environmental Criteria and Standards (24 CFR Part 51) and Site Contamination.

Airport Clear Zones and Accident Potential Zones:

A) The project is not within an FAA-designated civilian airport Runway Clear Zone (RCZ) -or Runway Protection Zone, or within a military airfield Clear Zone (CZ) or Accident Potential Zone (APZ) -Approach Protection Zone, 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.

* Environmental Criteria and Standards (24 CFR Part 51) and Site Contamination.

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. Particular attention should be given to nearby dumps, landfills, industrial sites and other operations with hazardous wastes.

B) Mitigate the adverse environmental condition by removing, stabilizing or encapsulating the toxic substances in accordance with the requirements of the appropriate Federal, state or local oversight agency; **OR** reject the proposal.

* Environmental Criteria and Standards (24 CFR Part 51) and Site Contamination.

Environmental Justice:

A) The proposed site is suitable for its proposed use and will NOT be adversely impacted by adverse environmental conditions;

B) Site suitability is a concern; the proposal is adversely affected by environmental conditions impacting low income or minority populations. Avoid such impacts or mitigate them to the extent practicable. Address and mitigate the disproportional human health or environmental effects adversely affecting the low income or minority populations **OR** reject the proposal.

* Executive Order 12898 Federal Actions to address environmental justice in minority populations and low-income populations.