

STATUTORY CHECKLIST
For Categorical Excluded Projects Only
24 CFR §58.5 STATUTES, EXECUTIVE ORDERS & REGULATIONS

Grant Recipient: _____ 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

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)] | | | | | |
| Safe Drinking Water Act (42 USC 201, 300(f) & 21 U.S.C. 349) | | | | | |
| 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] | | | | | |

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

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

Compliance Documentation

| | | | | | |
|--|--|--|--|--|--|
| 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)] | | | | | |
| 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); **Funds may be drawn down** for this (now) EXEMPT project; 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 drawing down funds; 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.

PREPARER SIGNATURE: _____ DATE: _____

PREPARER NAME: _____

RESPONSIBLE ENTITY AGENCY

OFFICIAL SIGNATURE: _____

NAME, TITLE: _____

DATE: _____



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INSTRUCTIONS for completing the STATUTORY WORKSHEET

For HUD funded projects which are categorically excluded per 24 CFR §58.35(a), the Responsible Entity (**RE**) must make a determination of whether the proposal achieves compliance with each applicable statute, Executive Order or regulation with or without requiring formal consultation procedures, 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. These instructions are not intended to replace the applicable regulations. Applicable regulations take precedence over these brief instructions). The Preparer of the Statutory Worksheet must **DOCUMENT AND/OR ATTACH THE SOURCES OF THE DETERMINATION.**

Record the finding status on the STATUTORY WORKSHEET for each listed Federal statute, regulation, or 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, 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.

Floodplain Management:

A) The project does not involve property acquisition, management, construction or improvements within 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.

Wetlands Protection:

A) The project does not involve new construction within or adjacent 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.

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, State Coastal Commission, 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.

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.

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

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.

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.

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).

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).

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.

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).

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.

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 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