

Categorically Excluded (Cat X) Checklist Instructions

(Use these instructions to complete the online Environmental Review Record in WebGrants.)

1. HISTORY: Properties, Archaeological, and Cultural – See State History Programmatic Agreement (PA)

Laws/Regulations: National Historic Preservation Act of 1966, Executive Order 11593, and Preservation of Historic and Archaeological Data Act of 1974-Potentially applicable to **ALL** proposed actions. These acts deal with the protection and/or preservation of sites/structures/districts included or eligible for the National Register of Historic Places and Properties and the preservation of scientific and historical, prehistoric and archaeological data.

Summary – You must take into account the effect of the undertaking on any district, site, building, structures or objects that might have significant associations with historic, architectural, archaeological or cultural events, persons, groups, and social or artistic movements.

WHAT DO I DO?:

- a. Review the Programmatic Agreement (PA), Start with APPENDIX 1 (Pgs 10-12)
- b. This section lists all the activities that are exempt from the Historic Preservation Act.
- c. Perform a site inspection of the property or area to identify and evaluate the project in relation to information contained in the Programmatic Agreement
- d. Ask the following questions:
 - Does the site contain a structure over 50 years of age or is the site in proximity to a structure (1/4 mile) that is over 50 years of age? Are there other properties, including structures fifty (50) or more years old, within the boundaries or in the vicinity of the project that appear to be historic and would thus ordinarily require consultation with the SHPO (State Historic Preservation Officer)?
 - If a structure over 50 years has been identified as part of the project, has a Reconnaissance Level Survey already been performed and approved by the SHPO?
 - Is the site identified on the National Register of Historic Properties or does it appear to meet the eligibility criteria for the National Register? Does the locality have an inventory of historic places?
 - Are you disturbing ground in a way that isn't excluded in Appendix 1. (Eg: new fire station, senior center, ambulance garage, new park, parking lot or other new construction.) See item #10 on page 12 of the Programmatic Agreement.
 - Is this project the replacement or rehabilitation of a public improvement?
 - Is the improvement to be conducted in a public right-of-way?
- e. Determine Impact Category on the checklist by locating the project activity in the Programmatic Agreement (PA).
- f. Attach Compliance Documentation or explain and attach your rationale for determination of Impact selected.
- g. If the project **cannot** be determined "No Effect, No Impact" using Appendix 1 of the P.A., contact Cheryl Brown at the Dept of Community and Culture for guidance on how to proceed.
- h. If there is no exemption for the project in Appendix 1 of the PA, but a "no effect" determination seems probable, use the sample letter template included in the Attachment A section of the Handbook. Send this letter to Cheryl Brown at: State of Utah, DCC, 324 South State, # 500, SLC, UT 84111. She will review the determination and work with the SHPO to either concur with the determination of "no effect" or to get further guidance.

2. FLOODPLAINS MANAGEMENT AND WETLAND PROTECTION – See link to FEMA Map Service Center

Any project, newly constructed or reconstructed/rehabilitated, resulting in beneficial or adverse conditions, that will be located in a 100 year floodplain or wetland, even if only a segment of the project involves such an area, triggers the need to comply with E.O. 11988 or 11990. This Executive Order requires the entity to consider alternatives and to notify the public regarding the proposed activity.

EXCEPTION: RESIDENTIAL REHABILITATION – Compliance with 11988 is required only when the cost of the rehabilitation is expected to exceed 50 percent of market value (appraised value) before improvement, excluding costs to bring a structure up to code.

Law/Regulation: Flood Disaster Protection Act of 1973 as amended; and Applicable State Legislation or Regulations; and Executive Order 11988 requiring participation in the National Flood Insurance Program. Federal policy recognizes that floodplains have unique and significant public values and call for protection of floodplains, and reduction of loss of life and property by not supporting projects located in floodplains, wherever there is a practicable alternative.

WHAT DO I DO?

Project In a Floodplain? (SFHA)	Step 2	Step 3	Step 4
Yes ? →	Does the Community in which the project is located participate in the National Flood Insurance Program (NFIP) ? →	Yes? Contact Cheryl Brown & complete the 8 Step Process (See template on Environmental Review web site)	Proceed with project after all public notices have been published and “environmental release” is granted by the State.
		No? Project cannot be funded with CDBG	Find a new location!
No ? →	Document and proceed with Project		

3. WETLANDS - Executive Order 11990 –

Law/Regulation: Executive Order 11990, Protection of Wetlands and Applicable State Legislation or Regulations. Section 1. (a) Each agency shall provide leadership and shall take action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands in carrying out the agency's responsibilities for (1) acquiring, managing, and disposing of Federal lands and facilities; and (2) providing Federally undertaken, financed, or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities.

Summary: Wetlands do not have to be literally “wet” to be considered wetland habitats. The U.S. Army of Engineers (Corps.) and the U.S. Environmental Protection Agency Jointly define wetlands as follows:

“Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life IN SATURATED SOIL CONDITIONS. Wetlands generally include swamps marshes, bogs, and similar areas.”

WHAT DO I DO?

1. Ask yourself these questions:

- a. Does the proposed CDBG project have the potential to affect or be affected by a wetland?
- b. Is the project in compliance with Executive Order 11990 and implementing HUD procedures in 24 CFR Part 55?
- c. Are there available alternatives to locating the project or activity in the wetland?
- d. Is the proposed project or activity in compliance with conditions set forth by the U.S. Army Corp of Engineers concerning permits for dredge and fill activity?
- e. If you are not sure or cannot determine whether wetlands exist within the project area contact the Army Corp of Engineers to make the determination. If the decision they make is positive, follow the instructions below.

The Corps has been assigned responsibility for administering the Section 404 permitting process. Activities in wetlands for which permits may be required include, but are not limited to:

- placement of fill material
- ditching activities when the excavated material is side cast
- levee and dike construction
- mechanized land clearing
- land leveling
- most road construction
- dam construction

If it is apparent that the project will be constructed in a wetland, the Grantee must follow the compliance requirements of E.O. 11988 that include notification of the public through publication of 2 public notices. Contact Cheryl Brown for public notice templates.

- a. The public notification process begins with the publication of the First Public Notice for Wetlands. A 15-day comment period must be allowed.

- b. Follow the **EIGHT-STEP DECISION-MAKING PROCESS** The Grantee must also submit documentation to show that the 8-step process did, indeed, take place.
- c. A Second Notice of Explanation must be published following the 15-day period after considering all the comments/suggestions from the public. The purpose of this notice is to inform the public about what the final determination of the project was - i.e., move the project, revise the plans, include floodplain measures, etc.
- d. Copies of both public notices and an explanation of your Eight Step Decision Making Process must be attached to the checklist when it is submitted.

4. COASTAL BARRIERS - NOT APPLICABLE IN REGION VIII - UTAH

5. SOLE SOURCE AQUIFERS – See Sole Source Aquifer Letter

Law/Regulation: Safe Drinking Water Act of 1974

Summary: The Safe Drinking Water Act requires that EPA designate areas in which no new underground injection wells may be operated without a permit for the operation of the wells. The criteria for area designation is that an area has one well which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health.

WHAT DO I DO? Determine whether or not any federally assisted projects under the HUD programs will be constructed which may contaminate one of the 3 aquifers in Utah designated by EPA as the sole source of drinking water for a community.

- a. Review current letter from EPA that states that it has designated 3 aquifers in Utah as sole sources of drinking water as defined in Section 1424(e) of the Safe Drinking Water Act. The aquifers are located near Oakley, Castle Valley and Moab.
- b. If the proposed project will in any way affect any underground water source the Environmental Certifying Officer (ECO) must indicate this on the checklist and attach the letter from EPA indicating “No impact” to any sole source aquifers.

6. ENDANGERED SPECIES – See State of Utah Endangered Species List

Law/Regulation: Endangered Species Act - Any proposed action that might jeopardize continued assistance of endangered or threatened species or result in destruction or modification of critical habitat. Agencies shall insure that their actions conserve listed species and ensure, in consultation with other agencies, that their actions will not jeopardize listed species or modify critical habitats.

Summary - Determine whether CDBG funded projects are likely to affect endangered or threatened species or Critical Habitats listed periodically under Section 4 of the Act.

WHAT DO I DO?:

- a. In compliance with Section 7(a) of the Act project managers must make a site observation and review the most current list of Endangered Species to ensure that a proposed project is not likely to affect the continued existence of an endangered or threatened species nor result in the destruction or adverse modification of critical habitats of plant and animal life.
- b. If after making a site visit and reviewing the most current list, the project manager cannot make a determination whether or not the activity will impact any identified species, he/she must contact the U.S. Fish and Wildlife Office to make a determination.

7. WILD AND SCENIC RIVERS – See the list of Inventoried Rivers

Law/Regulation: The Wild and Scenic Rivers Act of 1968 - Policy and direction pertaining to wild and scenic rivers (WSR) are found in the Wild and Scenic Rivers Act of 1968. The Wild and Scenic Rivers Act establishes the National Wild and Scenic Rivers System (NWSRS), designates rivers included in the system, establishes policy for managing designated rivers, and prescribes a process for designating additions to the system.

Summary - The act states “*certain selected rivers of the Nation which with their immediate environments, possess outstandingly remarkable scenic, recreation, geologic, fish and wildlife, historic, cultural, or other similar values (including ecological values), shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations.*” Consideration of a potential wild and scenic

river is an inherent part of the ongoing land and resource management planning process.

WHAT DO I DO?

- a. Review the List of Inventoried Rivers. If your project will be crossing over, discharging into, or in anyway impacting any of the rivers or streams included in this National Rivers Inventory (NRI), you must contact the appropriate agency to determine the appropriate mitigation action. If your project will have no influence on any of the rivers or streams note this on the checklist. Although Utah has only one designated Wild & Scenic River (Virgin River), all eligible and suitable rivers must be afforded the same protection.

8. AIR QUALITY – See Utah Division of Air Quality Letter and ATLAS Letter regarding asbestos

Law/Regulation: Clean Air Act 42 U.S.C. 7400, et. seq. Potentially applicable to all proposed activities. Air quality is an impact category for which specific Federal and non-federal governmental standards exist.

Summary: Consideration of air quality involves both analyzing the impact of the proposed project on air quality in the community and the impact of the existing environment on the proposed project forecasting. It depends on project size, type and its location (i.e., the suitability of the particular location for the type of project planned. Such consideration might, for example, argue against siting elderly housing adjacent to an expressway.

WHAT DO I DO?

Ask yourself the following questions:

- a. Does the project require an installation permit, operating permit or indirect source permit under local pollution control agency rules? If so, have permit requirements been satisfied?
- b. Is the project located in the vicinity of a monitoring station where air quality violations have been registered? If so, will the project exacerbate air quality problems in the area?
- c. If the project or its potential users would be particularly sensitive to existing air pollution levels, or those expected 10 and 20 years hence, has the project been designed to mitigate possible adverse effects?
- d. Will this project involve renovation of a building? If so, it is likely that asbestos testing is required.
- e. Will the proposed project have parking facilities for 2,000 cars (outside an SMSA) or generate traffic of a corresponding magnitude?

Review the letters from Utah Division of Air Quality. If you are able to determine that your project is one in which it is not necessary for you to contact the Division of Air Quality, highlight or underline the part of the letter referring to your project. Indicate this determination on the checklist and attach a copy of the letter to your checklist. If your project is not one of those identified, contact the Department of Environmental Quality, Division of Air Quality regarding your project specifically. If mitigation is required, indicate how that will be accomplished. Attach the response to the checklist.

9. FARMLANDS PROTECTION – Refer to USDA Service Center Listing for Farmlands contact information

Law/Regulation: Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 et seq) Any proposed action that encourages the conversion of prime, unique, important farmlands. The purpose of this Act is to minimize the extent to which Federal programs contribute to the unnecessary conversion of farmland to non-agricultural uses.

Summary - Farmland is a unique natural resource. The Act was passed In an effort to assure that the direct or indirect actions of the Federal Government do not cause U.S farmland to be irreversibly converted to non-agricultural uses

WHAT DO I DO?

- a. Assess whether or not the proposed project will convert farmland. Provide information on the land use zoning which now exists in the project area. If the land is already zoned for commercial or residential uses, indicate this on the checklist. If you plan to change the zoning, call the USDA-Natural Resources Conservation Service Office listed on the environmental web page.

CASES WHERE THE ACT DOES NOT APPLY

- 1. The proposed project site does not contain prime, unique, or designated statewide or locally important farmland (as defined by the Act).***
- 2. Urban land is exempt if the land is "already in" or "committed to" urban development -- see 7 CFR 658.2(a).***
- 3. Projects involving grants, loans or mortgage insurance for purchase or rehabilitation of existing structures.***

10. TOXIC CHEMICALS/RADIOACTIVE MATERIALS - See “Useful Links” on Environmental Review web site

Law/Regulations: 24 CFR Part 58.5 2(i), (ii), (iii)

Summary: HUD policy is to ensure that all property proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gasses and radioactive substances, where a hazard could affect the health and safety of occupants. Sites within 3,000 feet of the project should be evaluated.

WHAT DO I DO?

- a. Log into the online CERCLIS database. Use the link listed on the Environmental Review web page. This site will give you more information on the CERCLIS sites near your project. A contact person for the site should be provided. Ask for a determination as to whether or not this is an Acceptable Separation Distance, or information from him/her as to whether or not the EPA site has been properly contained. If EPA will not comment, you must contact the State Department of Environmental Quality, Division of Environmental Response & Remediation, Dale Urban, (801) 536-4145. Request the same information.
- b. Log into the TRI (Toxics Release Inventory) and RCRA query forms on the Environmental Review web page. Using the various search features, determine if there are any sites within 3,000 feet of the proposed project. Contact State of Utah, Department of Environmental Quality, Division of Solid and Hazardous Waste at (801) 536-0200 for information about the RCRA sites. Contact Dale Urban, 536-4146 for the TRI sites.
- c. If neither of these agencies will identify any special care that must be observed on your part, document process you have gone through on the checklist and indicate that you intend to proceed as planned unless these agencies tell you otherwise.

11. ENVIRONMENTAL JUSTICE

Law/Regulations: Executive Order 12898

Summary: Grantees need to document that these funds will not be used for an activity or in such a manner that will result in the separation, segregation or discrimination of low/moderate income or minority groups in any way from the rest of society. The concern expressed by this Executive Order is that there may be specific projects, particularly but not limited to housing projects, where it may appear that the federal funds are being used to develop projects that segregate LMI persons from higher income individuals by trying to force them into areas or locations that are actually adverse sites, specifically because of the low income or minority status.

WHAT DO I DO? You must evaluate the whole action being undertaken with HUD funds, even if the funds are only a portion of the overall project. Indicate on the checklist in words similar to the following that the project has been evaluated and *“there will be no activity performed with these funds that will in any way create discrimination or isolation of minority or low income individuals based on the location or purpose of this project. This project does not create an adverse health or environmental effect that disproportionately impacts minorities or low-income populations.”*

12. NOISE ABATEMENT & CONTROL - See HUD’s Online Noise Assessment Calculator

Law/Regulation: Noise Control Act 42U.S.C. 4903, 24 CFR Part 51 – Subpart B - Potentially applicable to all proposed activities. Grantees must take into consideration the noise criteria and standards in the environmental review process and consider mitigation measures when noise sensitive land development is proposed in high noise exposure areas.

Summary - Noise is defined as any unwanted sound that disturbs human activity. In the urban environment noise is due primarily to auto traffic, air traffic, railroads, heavy machinery and heating, ventilation and air-conditioning operations. The prime concern is the effect of existing and projected noise levels on the proposed project.

WHAT DO I DO?:

- a. Projects involving infrastructure improvements (sidewalks, water/sewer, curb and gutter), industrial or commercial facilities are not considered “noise sensitive”. Just indicate this on the checklist and move on to the next item on the checklist! No noise assessment is required.
- b. If your project involves the construction of housing and other noise sensitive projects such as housing facilities, nursing homes, college dormitories, hospitals, libraries, you must take specific measurements to determine if any of the following conditions exist:

- major roadways (4 lanes) within 1,000 feet of the site.
 - Railroad tracks within 3,000 feet of the site
 - commercial airports within 15 miles of the site. **ONLY THOSE AIRPORTS LISTED BELOW need to be considered based upon regularly scheduled commercial jet traffic.**
 - Bryce Canyon
 - Cedar City
 - Moab – Canyonlands
 - Salt Lake City
 - St. George
 - Vernal
 - Wendover
 - **ALL military airports within 15 miles must be reviewed.**
- c. If any of the above circumstances exist you must complete a noise assessment to determine if the noise level in the area exceeds HUD's limit of 65 dBl for "noise sensitive" projects. HUD's online Noise Assessment tool will address projects near roads and railroad tracks. Contact Cheryl Brown (801) 538-8729 for further guidance regarding projects near any airports listed above.
- d. Housing rehabilitation projects are exempt from HUD's noise regulations however project managers are encouraged to improve the negative noise impacts in the area by using triple pane windows when window replacement is part of the housing rehab activity.

13. SITING OF HUD ASSISTED PROJECTS NEAR HAZARDOUS OPERATIONS – See HUD's online ASD Calculator

1- Law doesn't apply to a property owner's personal storage tanks for residential use.

2- Law doesn't apply to repairs and renovation of a building or buildings where there will not be an increased number of people being exposed to hazardous operations due to the project, (Converting a warehouse to housing would NOT be exempt from the regulation.)

3. Law doesn't apply to curb, gutter, sidewalk, storm drain, waterline, or sewer projects.

Law/Regulation: 24 CFR Part 51 - Subpart C The propose of this subpart C is to:(a) Establish safety standards which can be used as a basis for calculating acceptable separation distances (ASD) for HUD-assisted projects from specific, stationary, hazardous operations which store, handle, or process hazardous substances.

Summary - Both people and property are at significant risk to exposure from the explosion and thermal radiation (fire) when projects are located too close to storage containers of hazardous gas and liquids or chemicals of a flammable or explosive nature. The concern is above ground hazards within one mile of the project.

WHAT DO I DO?:

- a. Make a site review of the project and identify any **ABOVE GROUND STORAGE TANKS** that are within one mile of the project. Look for storage tanks, holding facilities, process vessels, tank truck AND parking areas, railroad freight yards, and transmission lines which may be used to store, process or transport HAZARDOUS products. (Propane, Diesel fuel, etc) See Hazardous Substances list on Environmental Review web site.
- b. You can also contact the local fire department for information on tanks in the area.
- c. If a hazardous determination is made and you are increasing the number of people or structures at the project site, **you must calculate the Acceptable Separation Distance (ASD) for the project.** Contact Cheryl Brown (538-8729) for guidance on using HUD's Online ASD Tool posted on the Environmental Review web site.
- d. Housing rehabilitation activities that do not increase the number of persons exposed to above ground tanks in the area are exempt from the regulation.
- e. If no above ground hazards are found within one mile of project, indicate this on the environmental checklist.

14. AIRPORT CLEAR ZONES/ACCIDENT POTENTIAL ZONES (APZ) – See Utah Airport Information for contacts.

Law/Regulation: 24 CFR Part 51 - Subpart D - It is the purpose of this subpart to promote compatible land uses around civil airports and military airfields by identifying suitable land uses for Runway Clear Zones at civil airports and Clear Zones and Accident Potential Zones at military airfields and by establishing them as standards for providing HUD assistance, subsidy or insurance.

Summary - Potential aircraft accident problems that are inevitable side effects of aircraft operations make some types of development incompatible or unsuitable for locations in the immediate vicinity of airports and airfields.

WHAT DO I DO?:

An Airport Clear Zone (civil airports) as determined by the Federal Aviation Administration, is considered to be a trapezoidal area that may extend up to a maximum of 2500 feet from the end of the runway. The specific airport operators must supply actual length. The military has identified two zones. In total they extend about 15,000 feet from the end of the runway and are a maximum of 3,000 feet wide. If an airport owns a Clear Zone, the airport must determine what facilities can be constructed on it.

Ask yourself these questions:

- a. Will any part of the proposed project be sited in a Clear Zone? You can make this determination by observation or obtaining airport maps from the air comptroller of the airport in question.
- b. If the project site is not within a designated clear zone, indicate this on the checklist and move on!
- c. If the project appears to be within the clear zone contact Cheryl Brown for guidance.
- d. **New** projects may be done within a clear zone only if the facility meets the conditions of an "acceptable use".
- e. **Rehabilitation** of an existing structure in a Clear Zone may be done only if the applicant documents that he/she is aware of the existing condition for potential accidents and approves the rehabilitation being done. Use the sample noise letter in Attachment I to prepare this letter.
- f. In either case, assistance may be provided only if the proposed project or facility is one which is not frequently used or occupied by people and the airport operator will provide written assurances that the land is not planned for acquisition as part of a clear zone acquisition program.

15. LEAD BASED PAINT –

Law/Regulation: 24CFR Part 35 – Applicable to HUD funded projects involving buildings/housing built prior to 1978 when children are present or the building is used for overnight occupancy.

Summary: HUD is issuing this regulation to protect young children from lead-based paint hazards in pre-1978 housing that is financially assisted by the Federal Government.

WHAT DO I DO? The regulations are, unfortunately, terribly complicated. The requirements vary based on:

- a. the type of building involved
- b. the age of persons residing in or using the building
- c. type of activity – construction or not?
- d. the type of HUD funding – ESG, CDBG, NSP, HOPWA or HOME

The simplest guidance is this: If the project does NOT involve pre-1978 buildings used for children OR sleeping, check "No Impact" on the checklist and make a comment to that effect. This type of project does NOT trigger HUD's Lead Based Paint Regulations. If the project DOES involve pre-1978 buildings used for children or sleeping, indicate "Impact" on the checklist. The HUD Environmental Review Officer will contact the checklist preparer for further guidance regarding compliance with the regulation.

16. CULINARY WATER PROJECTS & WASTEWATER TREATMENT PLANT PROJECTS –

WHAT DO I DO? DEQ requires grantees to submit project plans prior to construction. Approval letter from the Utah Department of Environmental Quality (DEQ), (801) 536-4200, must be attached to the checklist in order to receive an environmental release from the HUD environmental review officer.