

GUIDANCE ON SCREENING FOR STATUTORY COMPLIANCE: LAWS AND AUTHORITIES LISTED AT 24 CFR 58.5

These instructions are a brief description of the essential findings needed to establish a record of compliance. These instructions are not intended to replace the applicable regulations. Applicable regulations take precedence over these brief instructions. These instructions merely outline whether or not the project requires formal consultation, permits or agreements, or will have an effect on the resources protected by the relevant Federal law or authority. Responsible entities must officially record their findings for each of the federal laws and authorities in the Environmental Review Record (ERR), and support their findings with relevant base data and verifiable source documentation.

COMPLIANCE STEPS NOT INVOKED

COMPLIANCE STEPS REQUIRED

Historic Properties:

The Responsible Entity (RE) and SHPO agree that there are No Historic Properties affected per 36 CFR 800.4.

The RE and SHPO agree historic properties will be affected. Assess and resolve adverse effects according to §800.5 et seq.

Floodplain Management:

The project does not involve property acquisition, land management, construction or improvement within a 100 year floodplain (Zones A or V) identified by FEMA maps, **OR** does not involve a "critical action" (e.g., emergency facility, facility for mobility impaired persons, etc.) within a 500 year floodplain (Zone B). If these maps have not been published, the same finding is necessary and is to be based on data from the City/County Engineer or local Flood Control Agency.

Complete and implement the 8-step decision making process identified in 24 CFR 55. (Projects may be approved within the floodplain only if the Responsible Entity documents there is no practicable alternative.)

Wetlands Protection:

The project does not involve new construction within or adjacent to a wetland identified by or delineated on maps issued by the U.S. Department of Interior, Fish and Wildlife Service.

Complete and implement the 8-step decision making process identified in 24 CFR 55. (Projects may be approved only if there is no practicable alternative outside the wetland area. However, such activities require a Section 404 permit from the U.S. Corps of Engineers).

Coastal Zone Management:

The project does not involve the placement, erection or removal of materials, nor increase the intensity of use in the Coastal Zone.

Secure concurrence from the Coastal Zone Commission or delegated planning commission with your determination of consistency with the applicable Coastal Zone Plan.

Sole Source Aquifers (Safe Drinking Water Act):

The project is not located within an area designated by EPA as being supported by a sole source aquifer, **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.

Consult with the Water Management Division of EPA for the implementation of project mitigation measures to avoid contaminating the aquifer, and retain documentation in the ERR, **OR** reject the proposal.

Endangered Species:

The project is not likely to affect Federally-listed or proposed threatened and endangered species (i.e., plants, animals, fish, or invertebrates), nor designated or proposed critical habitat. This finding is to be based on contact made with the U.S. Fish and Wildlife Service, or special study completed by a professional biologist and/or botanist.

Initiate and complete consultation with the U.S. Fish and Wildlife Service, in accordance with 50 CFR Part 402.

Wild and Scenic Rivers:

The project is not located within one mile of a listed Wild and Scenic River, **OR** the project will not have an effect on the natural, free flowing or scenic qualities of a river in the National Wild and Scenic Rivers system.

Consult with the U.S. Department of Interior, National Park Service for resolution and mitigation assistance, **OR** reject the proposal.

Air Quality:

The project is located within an "attainment" area, **OR** if within a "non-attainment" area, the project conforms with the EPA-approved State Implementation Plan (SIP), per contact with the State Air Quality Management District or Board.

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

Farmland Protection:

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 (formerly the Soil Conservation Service), **OR** the project site includes prime farmland, but is located in an area committed to urban uses.

Request evaluation of land type from NRCS using Form AD 1006, and consider the resultant rating in the project decision, as well as potential mitigation measures (including measures to protect adverse effect on adjacent farmlands), **OR** reject the proposal.

Noise Abatement and Control:

The project does not involve development of noise sensitive uses, **OR** the project is not within line-of-sight of an arterial roadway or railroad, **OR** ambient noise level is 65 LDN (or CNEL) or less, based upon the HUD Noise Assessment Guidelines (NAG) study for calculating noise levels.

Apply the noise standard to the project approval decision and implement noise attenuation measures, as applicable, (NAG page 39-40) **OR** reject the proposal.

Explosive or Flammable Operations:

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" (Appendix F, pp. 51-52), **OR** the project will expose neither people nor buildings to such hazards.

Mitigate the hazard (per 24 CFR 51.205) with the construction of a barrier of adequate size and strength to protect the project from the explosive or flammable hazard **OR** reject the proposal.

Toxic Chemicals

The project does not involve new development for habitation; **OR** the project involves new development for habitation, but is not located within one mile of an NPL ("Superfund") site, within ½ mile of a CERCLIS site, nor adjacent to any other known or suspected sites contaminated with toxic chemicals or radioactive materials, unless a Federal, State, or local authoritative source determines it does not pose a health hazard.

Responsible Entities are advised not to use funds for activities supporting new development for habitation when a project site is affected by toxic chemicals or radioactive materials. Mitigate the hazard until it poses no threat to health and safety, **OR** reject the proposal.

Airport Clear Zones and Accident Potential Zones:

The project is not within an FAA-designated civilian airport Runway Clear Zone (RCZ), or within a military airfield Clear Zone (CZ) or Accident Potential 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 a RCZ or CZ (**NOTE:** The Responsible Entity shall notify buyer of this fact and obtain buyer's signature acknowledging receipt of this information (24 CFR 58.6(c)).

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:

The project site is suitable for its proposed use and the project won't be adversely affected by existing environmental conditions.

Site suitability is a concern; **OR** the project is adversely affected by the environment with respect to low income or minority populations. Avoid such impacts or mitigate them to the extent practicable, **OR** reject the proposal