

# 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: CDBG HOME Public Housing EDI ICDBG NAHASDA Other: \_\_\_\_\_

	<b>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.</b>
	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: <ul style="list-style-type: none"> <li>▪ Replacement of water or sewer lines</li> <li>▪ Reconstruction of curbs and sidewalks</li> <li>▪ Repaving of streets</li> </ul>
	2. Special projects directed toward the removal of material and architectural barriers that restrict the mobility of and accessibility to the elderly and handicapped persons.
	3. Rehabilitation of buildings and improvements under the following conditions: <ul style="list-style-type: none"> <li>i. In the case of a building for residential use (with one to four units), the density is not increased beyond four units and the land use is not changed.</li> <li>ii. In the case of multifamily residential buildings: <ul style="list-style-type: none"> <li>A. Unit density is not changed more than 20%</li> <li>B. The project does not involve changes in land use from residential to non-residential; and</li> <li>C. The estimated cost of rehabilitation is less than 75% of the total estimated cost of replacement after rehabilitation.</li> </ul> </li> <li>iii. In the case of non-residential structures, including commercial, industrial, and public buildings: <ul style="list-style-type: none"> <li>A. The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and</li> <li>B. 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.</li> </ul> </li> </ul>
	4. An individual action <ul style="list-style-type: none"> <li>i. 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</li> <li>ii. 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.</li> </ul>
	5. 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;
	6. 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

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.	<b>No-Federal Assistance may not be used for this project.</b>
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: <a href="http://www.hud.gov/offices/cpd/energyenviron/environment/compliance/qa/airporthazards.pdf">http://www.hud.gov/offices/cpd/energyenviron/environment/compliance/qa/airporthazards.pdf</a> )		

## 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 :**

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

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)]		
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]		
<b>HUD ENVIRONMENTAL STANDARDS</b> 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.

**Conditions for Approval:** (List all mitigation measures adopted by the responsible entity to eliminate or minimize adverse environmental impacts. These conditions must be included in project contracts and other relevant documents as requirements).

**CERTIFICATION:**

PREPARER SIGNATURE: \_\_\_\_\_

NAME, TITLE: \_\_\_\_\_ DATE: \_\_\_\_\_

RESPONSIBLE ENTITY SIGNATURE: \_\_\_\_\_

NAME, TITLE: \_\_\_\_\_ DATE: \_\_\_\_\_

## **INSTRUCTIONS for completing the STATUTORY WORKSHEET**

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 affect on historic properties per §800.4(d)(2) This includes no adverse effect on historic properties §800.5.

**Floodplain Management:** **A)** The project does not require compliance with 8-step decision-making at 24 CFR Part 55.20 or the 5-step decision-making at 24 CFR 55.12(a). **B)** The project requires compliance with the 8-step decision-making process at 24 CFR Part 55.20 or the 5-step decision-making process at 24 CFR 55.12(a).

**Wetlands Protection:** **A)** The project does not require compliance with 8-step decision-making at 24 CFR Part 55.20 or the 5-step decision-making at 24 CFR 55.12(a). **B)** The project requires compliance with the 8-step decision-making process at 24 CFR Part 55.20 or the 5-step decision-making process at 24 CFR 55.12(a).

**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)** Impact 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.