

5-Year-(2026-2031)-HCDD-Housing-Repair-Tier-1



**U.S. Department of Housing and Urban  
Development**

451 Seventh Street, SW  
Washington, DC 20410

[www.hud.gov](http://www.hud.gov)  
[espanol.hud.gov](http://espanol.hud.gov)

**Tiered Environment  
Review for  
Activity/Project that is  
Categorically Excluded Subject to Section 58.5  
Pursuant to 24 CFR 58.35(a)**

**Project Information**

**Project Name:** 5-Year-(2026-2031)-HHCD-Housing-Repair-Tier-1

**Responsible Entity (RE):** KING COUNTY, 401 Fifth Avenue SEATTLE WA, 98104

**State / Local Identifier:**

**RE Preparer:** David Mecklenburg

**Certifying Officer:** Kristin Pula

**Grant Recipient (if different than Responsible Entity):**

**Point of Contact: NA**

**Consultant (if applicable): NA**

**Point of Contact: NA**

**Project Location:** Seattle, WA 98104

**Additional Location Information:**

Housing Repair Program(s) will serve cities in King County and unincorporated King County minus Auburn, Bellevue, Kent, Federal Way and Seattle.

**Direct Comments to:**

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**Description of the Proposed Project [24 CFR 50.12 & 58.32; 40 CFR 1508.25]:**

The purpose of these funds is to repair and/or improve (including accessibility improvements) the existing stock of homes owned by low to moderate-income households (includes individual condominiums, town homes, and mobile/manufactured homes that are part of the permanent housing stock). Programs funded including CDBG funds will be used to provide interest free deferred payment loans to low and moderate income homeowners (up to 80% of median) for health and safety repairs. Low-income homeowners (up to 50% of median) are eligible for emergency and mobile home grants.)

HOME funds will be used to provide interest free deferred payment loans to low- and moderate-income homeowners (up to 80% of median) to bring eligible houses up to Housing Quality Standards (HQS). Access to the program is provided through the King County Housing Repair Program. CDBG funds may also be used to provide minor home repair low-cost services related to electrical, plumbing, carpentry and disability access repairs to low-income, elderly and/or disabled homeowners. The program provides low-cost electrical, plumbing, carpentry and disability access repairs to low-income eligible residents. Program will maintain safety and health of the occupants. Housing preservation and maintenance are the goals with safety and health needs prioritized. Site specific projects for the Housing Repair Programs will occur throughout King County. Annually, the Housing Repair Programs address approximately 250 low and moderate-income homes with approximately \$1,000,000 in CDBG, and \$250,000 in HOME and other federal fund sources. Specific locations of individual units to be rehabilitated cannot be determined prior to the completion of the County's broad environmental review and the Request for Release of Funds (RROF). For the HRP activities proposed, HCDD, as the Responsible Entity (RE), is using the Tiered Environmental Review process proposed under HUD Regulations for the National Environmental Policy Act at 24 CFR Part 58.15. This RROF will be good for five years from acceptance date.

**Maps, photographs, and other documentation of project location and description:**

**Approximate size of the project area:** more than 1 square mile

**Length of time covered by this review:** 5 Years

**Maximum number of dwelling units or lots addressed by this tiered review:**  
2000

**Level of Environmental Review Determination:**

Categorically Excluded per 24 CFR 58.35(a), and subject to laws and authorities at §58.5:

58.35(a)(3)

58.35(a)(4)

58.35(a)(6)

**Determination:**

|   |                                                                                                                                                                              |
|---|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|   | Extraordinary circumstances exist and this project may result in significant environmental impact. This project requires preparation of an Environmental Assessment (EA); OR |
| X | There are no extraordinary circumstances which would require completion of an EA, and this project may remain CEST.                                                          |

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|                                                                                                                                  |                                |                                                                                                                                               |                                |
|----------------------------------------------------------------------------------------------------------------------------------|--------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|
| <b>Preparer (signature):</b><br><br><div><div>DocuSigned by:</div><div>Dave Mecklenburg</div><div>4DDED7D0570E478...</div></div> | <b>Date:</b><br><br>11/24/2025 | <b>Chief of Capital Programs (signature):</b><br><br><div><div>DocuSigned by:</div><div>Kristin Pula</div><div>1DDCEA0A790B439...</div></div> | <b>Date:</b><br><br>11/24/2025 |
|----------------------------------------------------------------------------------------------------------------------------------|--------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|

Approval Documents:

7015.15 certified by Certifying Officer on:

7015.16 certified by Authorizing Officer on:

Funding Information

| Grant Number | HUD Program                              | Program Name                                            |
|--------------|------------------------------------------|---------------------------------------------------------|
| CDBG         | Community Planning and Development (CPD) | Community Development Block Grants (CDBG) (Entitlement) |
| HOME         | Community Planning and Development (CPD) | HOME Program                                            |

Estimated Total HUD Funded Amount: \$6,500,000.00

Estimated Total Project Cost [24 CFR 58.2 (a) (5)]: \$25,000,000.00

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**Compliance with 24 CFR §50.4, §58.5 and §58.6 Laws and Authorities**

|                                                                                                                    |                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|--------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Compliance Factors:</b><br>Statutes, Executive Orders, and Regulations listed at 24 CFR §50.4, §58.5, and §58.6 | Was compliance achieved at the broad level of review?               | Describe here compliance determinations made at the broad level and source documentation.                                                                                                                                                                                                                                                                                                                                                 |
| <b>STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR §50.4 &amp; § 58.6</b>                             |                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Airport Hazards                                                                                                    | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | Project(s) that are located within 15,000 feet of a military airport or 2,500 feet of a civilian airport will not include new construction, substantial rehabilitation, acquisition of undeveloped land, or activities that would significantly prolong the physical or economic life of existing facilities that will be frequently used or occupied by people. Housing rehabilitation activities would be limited to emergency repairs. |
| Coastal Barrier Resources Act                                                                                      | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | State of Washington is not in a Coastal Barrier Resources Area. All CBRA's are in the Great Lakes, East Coast or Gulf Coast regions of the United States. See map of Coastal Barrier Resources in "Supporting Documentation."                                                                                                                                                                                                             |
| Flood Insurance                                                                                                    | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | HUD grants administered by King County, its subrecipients or contractors will not fund the rehabilitation of housing structures located in a FEMA designated Special Flood Hazard Area. Documentation will include FEMA Flood Insurance Rate Maps (FIRM).                                                                                                                                                                                 |

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| STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR §50.4 & § 58.5 |                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|-----------------------------------------------------------------------------|---------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Air Quality                                                                 | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | <p>King County is in attainment status for all criteria pollutants. Site confirming or documenting this status is found at:<br/> <a href="https://nepassisttool.epa.gov/nepassist">https://nepassisttool.epa.gov/nepassist</a><br/>           Specific attainment descriptions of layers may be found at:<br/> <a href="https://nepassisttool.epa.gov/nepassist/help/layersdescription.html#naa0">https://nepassisttool.epa.gov/nepassist/help/layersdescription.html#naa0</a><br/>           See NEPA Assist map below in "Supporting Documentation."</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Coastal Zone Management Act                                                 | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | <p>Project(s) will be located a Coastal Zone Management County (King). Projects will not be located on tribal trust lands and not include new construction or major rehabilitation. Major rehabilitation means work that exceeds the categorical exclusion threshold at 24 CFR Part 58.35(a) and therefore requires a full Environmental Assessment. Therefore CZM is not triggered. Furthermore: As of July 22, 2020, Washington State Department of Ecology notified HUD of the following:</p> <p><i>"Ecology has concluded that it is unnecessary for U.S. Department of Housing and Urban Development (HUD) to continue to send project information in order to receive Ecology's concurrence that the funding phase of the project is consistent with Washington's CZMP. Therefore, we are writing to inform you that HUD no longer needs to require applicants to send Ecology letters seeking our concurrence on projects for which HUD plans to release federal funding."</i></p> <p>Inclusion of the following statement in the Environmental Review Record is strongly encouraged to ensure projects are aware that CZM may still apply at the time of local and/or national permitting.</p> |

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|                                    |                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|------------------------------------|---------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                    |                                                                     | <p>“Concurrence from Dept. of Ecology for Coastal Zone Management is no longer required under a Part 58 or Part 50 Environmental Review in Washington State. However, at the time of project development, the activity may trigger review if it falls under other parts of the CZMA regulations for federal agency activities (Title 15 CFR Part 930, subpart C), or consistency for activities requiring a federal license or permit (Title 15 CFR Part 930, Subpart D) and will be subject to all enforceable policies of the Coastal Zone Management Program. It is during the local permitting process that a project might be subject to CZM and further review by the Dept of Ecology.” Should housing repair projects require local permitting this will be undertaken by those jurisdictions.</p> |
| Contamination and Toxic Substances | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | <p>This regulation will be assessed at the Tier 3 site specific review level for any on-site or nearby toxic, hazardous, or radioactive substances found that could affect the health and safety of project occupants or conflict with the intended use of the property.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Endangered Species Act             | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | <p>By following Table A parameters in both the U.S. Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS), with respect to Consultation Guidance with HUD and HUD Programmatic agreement (see attached) King County and its subrecipients who administer Housing Repair programs and perform the following activities-completing interior renovations to existing buildings, and replacing exterior paint or siding on existing buildings will have No Effect on listed or proposed species and designated or proposed critical habitats.</p> <p>If the project has ground disturbance, changes to stormwater design and mitigation, King County Staff will use the most recent HUD</p>                                                                                            |

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|  |  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|--|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  |  | <p>checklists and programmatic agreement worksheets to meet a No Effect Finding. Consultation with U.S. Fish and Wildlife Service and/or NOAA Fisheries is not required. When Effects to listed species are expected to be insignificant a "Not likely to Adversely Affect" determination will be made and consultation with FWS and NMFS for supporting documentation will be submitted. State of Washington Region.</p> <p>Sample worksheets and materials will be at end of document.</p> |
|--|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

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|                                 |                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|---------------------------------|---------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Explosive and Flammable Hazards | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | Programs do NOT include any of the following: Development, Construction, Rehabilitation that will increase residential densities, or conversion. The requirements of this Standard (24 CFR Part 51) is not applicable.                                                                                                                                                                                                                                                                                                                              |
| Farmlands Protection            | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | Programs do not include new construction, acquisition of undeveloped land, or conversion of land. Project(s) will not convert farmland to non-agricultural use. Project(s) are in compliance with Farmland Protection Act.                                                                                                                                                                                                                                                                                                                          |
| Floodplain Management           | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | The County will not provide substantial assistance (i.e. assistance greater than 50% of the unit's market value) to units in the floodplain. Also, Rehabilitation of a building for residential use (with one to four units) where the density is not increased beyond four units, and the land use is not changed meets the requirements of 24 CFR 55.12(c)(1) - Activities Exempt from having to do steps to comply with Floodplain Management. Regulation citation of Exempt activity for Housing Rehabilitation can be found at 58.35(a)(3)(i). |
| Historic Preservation           | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | Compliance will be assessed at the Tier 3 site specific review level and will use <a href="http://wisaard.dahp.wa.gov">wisaard.dahp.wa.gov</a> for architectural and archaeological resources. If required, King County will consult with the tribes as well. State of Washington Region X worksheet will be completed as part of compliance. See attached worksheet.                                                                                                                                                                               |
| Noise Abatement and Control     | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | Programs are minor home rehabilitation. The following measures will be implemented: - Improved building envelope components (better windows and doors, strengthened sheathing, insulation, sealed gaps, etc.) -Redesigned building envelope (more durable or substantial materials,                                                                                                                                                                                                                                                                 |

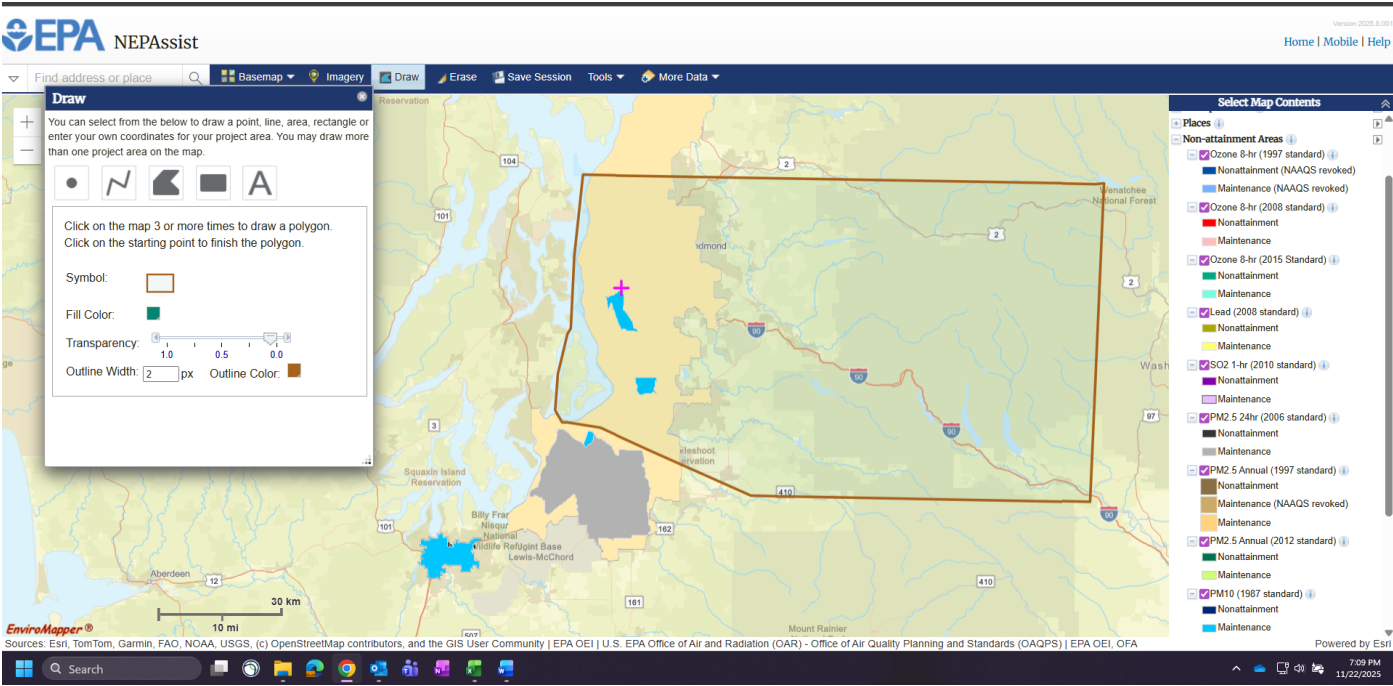
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|                              |                                                                     |                                                                                                                                                                                                                                                                                                                                        |
|------------------------------|---------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                              |                                                                     | increased air gap, resilient channels, staggered wall studs, etc.) -Other (double glazed windows, extra insulation). Aforementioned measures will enable project(s) to be in compliance with Noise Abatement and Control Standards. See attached.                                                                                      |
| Sole Source Aquifers         | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | This regulation will be assessed at the Tier 2 level if the projects are all located in an area NOT above a Sole Source Aquifer, OR the regulation will be assessed at Tier 3 site specific review level. State of Washington Region X Sole Source Aquifer will be completed as part of compliance with this regulation. See attached. |
| Wetlands Protection          | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | Programs do not include New Construction and does not include expansion of the footprint of the existing house. Programs are in compliance with Executive Order 11990. See description.                                                                                                                                                |
| Wild and Scenic Rivers Act   | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | Only Wild an Scenic River in King County is Middle Fork Snoqualmie River. Programs will not consider rehabilitation of housing in close proximity to this river. Website to view map of rivers: <a href="https://www.rivers.gov/">https://www.rivers.gov/</a> .                                                                        |
| <b>ENVIRONMENTAL JUSTICE</b> |                                                                     |                                                                                                                                                                                                                                                                                                                                        |
| Environmental Justice        | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | Programs (Rehabilitation of Housing) will not create adverse environmental impacts. There is no disproportionate impact to minority or low to moderate income persons. See program descriptions.                                                                                                                                       |

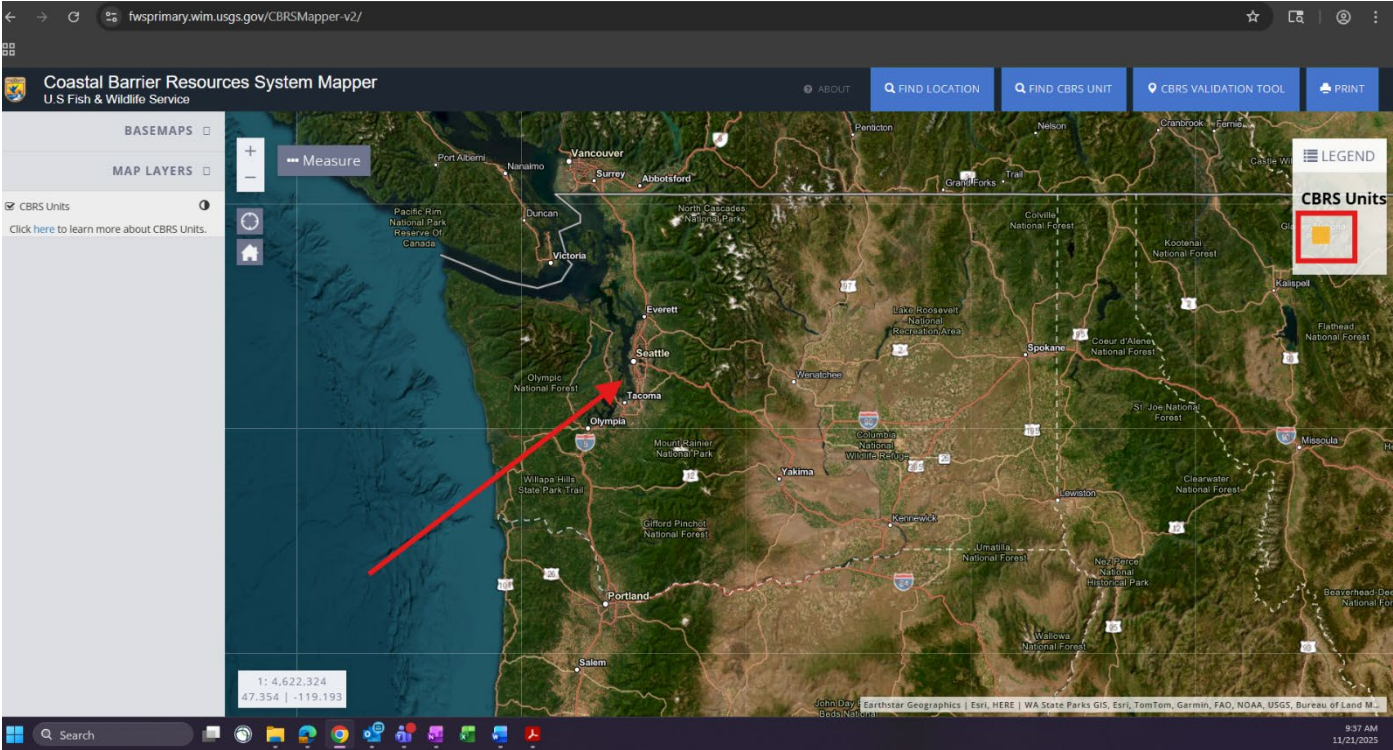
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Supporting documentation

Attainment (Air Quality Map)



Coastal Barriers



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### **Written Strategies**

The following strategies provide the policy, standard, or process to be followed in the site-specific review for each law, authority, and factor that will require completion of a site-specific review.

### **Supporting documentation**

Tier 4 ER Record Form LW 6-29-20.docx

Tier 3 Site Specific ER\_LW 6-29-20.docx

Tier 2 Annual Broad ER Form.docx

Written Strategy for Tiered Reviews LW 6-29-20.docx



**Housing and Community Development Division.  
November 25, 2025**

**Environmental Review (ER) Written Strategy and Tiered Reviews for 5-year 2026-2031  
King County Housing Repair Programs**

This document describes the process King County Housing and Community Development Division (HCDD) will incorporate for its Written Strategy which includes a description of Tiered Reviews. This description provides details for completing environmental reviews for King County Housing Repair Program and HCDD Subrecipients Minor Home Repair (MHR) Programs. Please note the following procedures.

**Tier 1:** In this Broad Review (5-year programmatic 2026-2031), HCDD has evaluated environmental regulations at 24 CFR Part 58.5, Part 58.6 and applicable Laws, Statutes and Authorities. We have assessed all regulations as they relate to Tiered Reviews. The HUD Environmental Review Online System (HEROS) contains the electronic version of the Tier 1 Broad Review. The Tier 1 review includes a Project Description section that has identified the regulations that will and will *not* be triggered by King County Housing Repair Programs (HRP) and Subrecipient(s) Minor Home Repair (MHR) programs.

**Tier 2: Annual Broad Program ERs:** HCDD Staff will complete Tier 2 Annual Program Reviews for all Housing Repair Programs and related housing improvement projects, as applicable, at the beginning of each program year or December of prior year. Tier 2 Program Annual Reviews will outline each specifically funded program for the year's ER plan, provide specific Area of Consideration (i.e. cities participating in the HOME and CDBG Consortiums) and will require that the Tier 3 Site Specific ER Checklist be completed per the identified program. Tier 2 template is attached. Tier 2 will include reviewing the following laws, statutes and authorities.

- *Airport Hazards  
24 CFR Part 51 Subpart D.*
- *Flood Insurance*

*Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a].*

- *Coastal Barrier Resources CBR Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501].*
- *Endangered Species Act [The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); particularly section 7 (16 USC 1536).]*

**Tier 3: Site Specific ER Checklist:** The Tier 3 review is designed to determine if an activity is maintenance or rehabilitation on a site specific (address) basis. The following describes the differences between King County Housing Repair Program Tier 3 process and Subrecipient Minor Home Repair Program.

**King County Housing Repair Program(KCHRP):** For Site Specific reviews of jobs that fall within the maintenance category please review Community Planning and Development (CPD)-16-02 Guidance for Categorizing an Activity as Maintenance for Compliance with HUD Environmental Regulations, 24 CFR parts 50 and 58, [published February 8, 2016] Notice. After reviewing guidance, KCHRP Staff will complete attached Tier 3 ER KCHRP Site Specific Checklist. For Tier 3's that exceed "maintenance" threshold the review must address the following environmental laws:

- *Flood Insurance [Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a]] and 24 CFR Part 58.6.*
- *Contamination and Toxic Substances (2077)-Single Family Residential Properties [24 CFR 50.3(i) & 58.5(i)(2)]*
- *Historic Preservation [National Historic Preservation Act of 1966, particularly sections 106 & 110; 36 CFR Part 800]*
- *Endangered Species Act [The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); particularly section 7 (16 USC 1536).]*

**HCDD Subrecipient Minor Housing Repair Programs:** For Site Specific reviews of jobs that fall within the maintenance category per CPD-16-02 Guidance for Categorizing an Activity as Maintenance for Compliance with HUD Environmental Regulations, 24 CFR parts 50 and 58, [published February 8, 2016], Subrecipient MHR staff shall submit a Request for ER review to HCDD Project Manager for review. HCDD Project Manager will complete attached Tier 3 ER Subrecipient Checklist. If the review determines the project to be maintenance, then HCDD Project Manager approves the ER, sends the Notice To Proceed (NTP) document to MHR staff and the project can proceed. If the project exceeds the "maintenance" threshold outlined in CPD-16-02 Notice, the HCDD Project Manager will complete a **Tier 4 ER Subrecipient Site Specific ER Checklist**.

**Tier 4:** If a Tier 3 review has been determined to exceed categorization of the activity as being maintenance and rises to the level of rehabilitation, then completion of a Tier 4 is required. The Tier 4 review will determine whether a proposed project meets the Exempt requirements at 58.34(a)(12). An approved Tier 4 must be completed prior to Subrecipient proceeding with project. **Tier 4 reviews that cannot convert to Exempt will not be approved and project can't proceed.** See attached Tier 4 template. Tier 4 review will address the following ER requirements:

- *Flood Insurance*  
[Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a]] and 24 CFR Part 58.6.
- *Contamination and Toxic Substances (2077)-Single Family Residential Properties*  
[24 CFR 50.3(i) & 58.5(i)(2)]
- *Historic Preservation*  
[National Historic Preservation Act of 1966, particularly sections 106 & 110; 36 CFR Part 800]
- *Endangered Species Act*  
[The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); particularly section 7 (16 USC 1536).]

Please note that 24 CFR Part 58.47 requires entities (King County) to re-evaluate environmental assessments and findings. During the 5 year period of this ER, HCDD will periodically review its policies and documents to ensure compliance with environmental laws, statutes and authorities.

Please note that HUD Region X Washington State Checklists for Historic Preservation and compliance with Endangered Species Act forms for National Marine Fisheries Service and United States Fish and Wildlife Service will be found at the end of the Tier 1 Review Compilation. These checklists will be used in Tier 3 Checklist for the King County Housing Repair Program and Tier 4 Minor Home Repair Program reviews.

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## **APPENDIX A: Site Specific Reviews**

# Environmental Review Record

## King County Dept. of Community & Human Services Housing and Community Development Division (HCDD) Tier 2 Annual Broad Environmental Review

### 1. Project Name: – King County Housing Repair (KCHR) Program (C2x602):

The Environmental Review Record shall contain all environmental review documents, public notices and written determinations or environmental findings required by this part as evidence of review, decision making and actions pertaining to a particular project of a recipient. Complete items 1 through 10 as appropriate. If, under item 9, the project is exempt (§58.34) or categorical excluded (§58.35(b)), do not proceed to the Statutory Checklist or the EA. If project requires Release of Funds (ROF) from HUD, attach RROF affidavit of publication and ROF letter.

### 2. Project Address:

King County CDBG & HOME Consortia  
A current list of Cities may be found at:  
<https://kingcounty.gov/en/dept/dchs/human-social-services/housing-homeless-services/funding-opportunities/housing-consortium>

### 3. Program Name and Address:

King County Housing Repair  
Program  
401 5<sup>th</sup> Ave.  
Seattle, WA 98104

### 4. Contact Person: Jane Doe (Jane.Doe@Cityname.gov / 206-123-4567)

### 5. Funding Source: CDBG/HOME (if applicable)

### 6. Eligible Activ.: Housing Rehab Cita.: 570.202

### 7. \$ Amt: \$XXXXXX

### 8. Project Description: CDBG funds will be used for the minor rehabilitation of Low and Moderate Income owner occupied housing. These projects will assist in the preservation of safe and decent affordable housing units.

### 9. Environmental Finding: Tier 2 Annual Broad Environmental Reviews will outline each specifically funded program for the year's ER plan, provide specific Area of Consideration (i.e. cities participating in the HOME and CDBG Consortia) and will require that the Tier 3 Site Specific ER Checklist be completed per the identified program.

☒ Tiered Review used: KCHR Program staff shall complete, sign and submit to HCDD staff a **Tier 3 Site Specific Environmental Review (ER) Form** (see Tier 3 template) and **Lead Based Paint (LBP) Checklist**, as applicable, for every individual housing unit. Work may not start until HCDD staff have replied with ER approval and notice-to-proceed email. The following checklist documents environmental review for approval of Tier 2.

|             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|-------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| “√”<br>Here | <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>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|             | <p>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 of more than 20 percent. Examples:</p> <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>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| √           | <b>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.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| √           | <p><b>3. Rehabilitation of buildings and improvements under the following conditions</b></p> <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, the land use is not changed, and the footprint of the building is not increased in a floodplain or in a wetland;</li> <li>ii. In the case of <u>multifamily residential buildings</u>: <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 <u>non-residential structures</u>, 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> |
|             | <p>4. An individual action</p> <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 or disposition of an existing structure or acquisition of vacant land provided that the structure or land acquired or disposed of will be retained for the same use;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| √           | <b>6. Combinations of the above activities</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

## Statutes and Regulations Listed at 24 CFR 58.6

| Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR 58.6                                                                  | Are formal compliance steps or mitigation required?                  | Compliance determinations, backup documentation, rationale                                                                                                                                                               |
|--------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>01_Airport Hazards</b><br>24 CFR Part 51 Subpart D                                                                                                  | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>  | By definition, Housing Repair and Rehabilitation projects will not involve HUD assistance/ subsidy/ insurance for the purchase or sale of an existing property, therefore no further Airport Hazards review is required. |
| <b>03_Flood Insurance</b><br>Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a] | Yes <input type="checkbox"/> No* <input checked="" type="checkbox"/> | Site Specific Environmental Reviews will document site placement in a Special Flood Zone.                                                                                                                                |
| <b>05_Coastal Barrier Resources</b><br>CBR Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]                                | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>  | There are no Coastal Barrier Resources in Washington State.                                                                                                                                                              |

|                              |              |                                               |              |
|------------------------------|--------------|-----------------------------------------------|--------------|
| <b>Preparer (signature):</b> | <b>Date:</b> | <b>Chief of Capital Programs (signature):</b> | <b>Date:</b> |
|                              |              |                                               |              |

**10. Summary of environmental conditions and mitigation measures:** The Tier 2 Annual Broad Environmental Review is completed. No formal compliance steps or mitigation required. Signatures above approves Tier 2 Review for King County Housing Repair Program

Environmental Review Record

King County Dept. of Community & Human Services Housing and Community Development  
Division (HCDD) Tier 2 Annual Broad Environmental Review

1. Project Name: Subrecipient/City Name - Home Repair (MHR) Program (CXXXXX):

The Environmental Review Record shall contain all environmental review documents, public notices and written determinations or environmental findings required by this part as evidence of review, decision making and actions pertaining to a particular project of a recipient. Complete items 1 through 10 as appropriate. If, under item 9, the project is exempt (§58.34) or categorical excluded (§58.35(b)), do not proceed to the Statutory Checklist or the EA. If project requires Release of Funds (ROF) from HUD, attach RROF affidavit of publication and ROF letter.

|                                                                    |                                                                                                 |
|--------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|
| 2. Project Address:<br>City-wide/Name of Cities                    | 3. Applicant Name & Address:<br>Subrecipient/City Name(s)<br>123 Main Street.<br>City, WA 98XXX |
| 4. Contact Person: Jane Doe (Jane.Doe@Cityname.gov / 206-123-4567) |                                                                                                 |

5. Funding Source: CDBG/HOME (if applicable)  
6. Eligible Activ.: Housing Rehab Citation.: 570.202  
7. \$ Amt: \$XXXXXX

8. Project Description: CDBG funds will be used for the minor rehabilitation of Low and Moderate Income owner occupied housing. These projects will assist in the preservation of safe and decent affordable housing units.

9. Environmental Finding: Tier 2 Annual Broad Environmental Reviews will outline each specifically funded program for the year's ER plan, provide specific Area of Consideration (i.e. cities participating in the HOME and CDBG Consortiums) and will require that the Tier 3 Site Specific ER Checklist be completed per the identified program.

☒ Tiered Review used: Subrecipient/City Minor Home Repair (MHR) staff shall complete, sign and submit to HCDD staff a **Tier 3 Site Specific Environmental Review (ER) Form** (see Tier 3 template) and **Lead Based Paint (LBP) Checklist**, as applicable, for every individual housing unit. Work may not start until HCDD staff have replied with ER approval and notice-to-proceed email. The following checklist documents environmental review for approval of Tier 2.

|             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|-------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| “√”<br>Here | <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>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|             | <p>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 of more than 20 percent. Examples:</p> <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>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| √           | <b>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.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| √           | <p><b>3. Rehabilitation of buildings and improvements under the following conditions</b></p> <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, the land use is not changed, and the footprint of the building is not increased in a floodplain or in a wetland;</li> <li>ii. In the case of <u>multifamily residential buildings</u>: <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 <u>non-residential structures</u>, 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> |
|             | <p>4. An individual action</p> <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 or disposition of an existing structure or acquisition of vacant land provided that the structure or land acquired or disposed of will be retained for the same use;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| √           | <b>6. Combinations of the above activities</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

## Statutes and Regulations Listed at 24 CFR 58.6

| Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR 58.6                                                                  | Are formal compliance steps or mitigation required?                  | Compliance determinations, backup documentation, rationale                                                                                                                                 |
|--------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>01_Airport Hazards</b><br>24 CFR Part 51 Subpart D                                                                                                  | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>  | By definition, MHR projects will not involve HUD assistance/ subsidy/ insurance for the purchase or sale of an existing property, therefore no further Airport Hazards review is required. |
| <b>03_Flood Insurance</b><br>Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a] | Yes <input type="checkbox"/> No* <input checked="" type="checkbox"/> | Program design is limited to less than \$5,000 per house.<br><br>*In the rare instance that a house receives over \$5,000, and is in a floodplain, flood insurance may be required.        |
| <b>05_Coastal Barrier Resources</b><br>CBR Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]                                | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>  | There are no Coastal Barrier Resources in Washington State.                                                                                                                                |

|                              |              |                                  |              |
|------------------------------|--------------|----------------------------------|--------------|
| <b>Preparer (signature):</b> | <b>Date:</b> | <b>Chief of Capital Programs</b> | <b>Date:</b> |
|                              |              |                                  |              |

**10. Summary of environmental conditions and mitigation measures:** The Tier 2 Annual Broad Environmental Review is completed. No formal compliance steps or mitigation required.  
Signatures above approves Tier 2 Review for **(Program – King County, Program Name)**



**King County**

## Environmental Review Record

### King County Housing Repair Program

(Updated November 2025)

1. Applicant Name \_\_\_\_\_  
 Project Address \_\_\_\_\_  
 City , State, Zip \_\_\_\_\_

2. Funding source ☐ CDBG ☐ HOME ☐ OTHER

#### Project Description:

#### Section A

Is the project for routine maintenance?

*(Routine maintenance is described as activities that merely keep the structure in good operating condition; they do not add to the value of the structure, appreciably prolong its useful life, or adapt it to new uses. Examples of routine maintenance would be interior painting, fixing gutters or floors, mending leaks, plastering, replacing thermostats, hot water heaters, broken windowpanes, or door locks. See exempted activities definitions of maintenance are provided in CPD-16-02 Guidance for Categorizing an Activity as Maintenance for Compliance with HUD Environmental Regulations, 24 CFR parts 50 and 58, [published February 8, 2016],*

☐ Yes. Project is categorically excluded, not subject to section 58.5. Proceed and place this finding in client file.

☒ No. Proceed with Section B.

#### Section B

*In contrast to the above-mentioned description of "routine maintenance", activities that are considered "repairs" are adding a room, replacing a roof, comprehensive remodeling, adding an outside wheelchair ramp, or replacing major equipment inside the home.*

For activities in this section, the following questions must be answered and documented.

#### Flood Disaster Protection Act of 1973 (24 CFR Part 58.6)

| General requirements                                                                                                                                                                                                                                                                                                                                                                                                                       | Legislation                           | Regulation       |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------|------------------|
| To expand the national flood insurance program by substantially increasing limits of coverage and total amount of insurance authorized to be outstanding and by requiring known flood-prone communities to participate in the program. Flood Insurance under the National Flood Insurance Program must be obtained and maintained, if located in a 100 year flood plain. A copy of the flood insurance policy declaration must be in file. | Flood Disaster Protection act of 1973 | 24 CFR Part 58.6 |

**Is this project located in a floodway?**



**King County**

## **Environmental Review Record**

### **King County Housing Repair Program**

*(Updated November 2025)*

☐ Yes. Project is located in a Floodway, Stop: This project will not be funded.

☐ No. Proceed to next question.

#### **Is this project in the 100 year flood plain?**

☐ Yes. Project falls within the 100 year flood plain, and triggers (24 CFR Part 58.6), National Flood Insurance is required. Place a certificate of flood Insurance in the client file, along with the FEMA Flood map or other appropriate mapping determining 100 year flood plain. Proceed to Section 106

☐ No. Proceed to Section 106

<http://www.kingcounty.gov/environment/waterandland/flooding/maps/flood-insurance-rate-maps/rate-map-panels.aspx>

**ER Comments:**

## **Section 106: Historic Preservation and Archaeology**

**(for Washington State)**

**24 CFR Part 58**

| <b>General requirements</b>                                                                                                                                         | <b>Legislation</b>                                                | <b>Regulation</b>                      |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------|----------------------------------------|
| Protect sites, buildings, and objects with national, state or local historic, cultural and/or archeological significance. Identify effects of project on properties | National Historic Preservation Act, 16 U.S.C. 470(f), section 106 | 36 CFR Part 800<br>24 CFR Part 58.5(a) |

#### **1. Does the project involve a structure that is less than 45 years old, is not in a historic district and has no ground disturbing activities?**

☐ Yes: STOP here. The Section 106 Historic Preservation review is complete. Record your determination that there is no potential to cause effect, including the age of the existing building and information from the National Register to show that the activity is not in a historic district, on the Statutory Worksheet or Environmental Assessment.

☐ No: PROCEED to #2.

#### **2. Use State's WISAARD database to consult with DAHP or THPO and any tribes or groups that may have an interest in the project to determine if the project is eligible for the National Historic Register.**



King County

## Environmental Review Record

### King County Housing Repair Program

(Updated November 2025)

☐ Yes: STOP here. The Section 106 Historic Preservation review is complete. Specify in "ER Comments" below how the project complies with, or falls below thresholds outlined in the PA, and what documentation is included in this ERR to support that determination.

☐ No: PROCEED to appropriate check boxes below

☐ **No Historic Properties Affected:** STOP here. The Section 106 Historic Preservation review is complete. . Please include response from SHPO and/or WISAARD Database.

☐ **No Adverse Effect on Historic Property:** STOP here. The Section 106 Historic Preservation review is complete. Please include King County unexpected finds documents to the contract effecting contractors that will be disturbing more than the De minimis amounts of soil.

**Please include Historic Preservation and Archaeology Exemption Checklist.**

☐ **Adverse Effect on Historic Property:** Project will not be funded.

**ER Comments:**

## Toxic Chemicals and Radioactive Materials

| General requirements                                                                                                                                                                                                                                                               | Legislation                                                                                                                              | Regulation     |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| All property proposed for use in HUD programs must be free of hazardous materials, contamination, toxic chemicals and gasses and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property. | Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended by Superfund Amendments and Reauthorization Act | 24 CFR 58.5(i) |

You are required to consider all hazards that could affect the health and safety of occupants and use current techniques by qualified professionals to undertake investigations determined necessary. This checklist tool is intended as guidance only and does not cover all possible hazards. This document is subject to change. Legislation and Regulations take precedence over any information found in this document.

**1. Is the answer Yes to any of the following questions?**

- **Is the property or surrounding neighborhood listed on an EPA Superfund National Priorities, the CERCLA List, or equivalent State list?**

An internet site that may be helpful is <http://nepassisttool.epa.gov/nepassist/entry.aspx>

☐ No ☐ Yes

- **Is the property located near a toxic or solid-waste landfill site?**

An internet site that may be helpful is



King County

## Environmental Review Record

### King County Housing Repair Program

(Updated November 2025)

<http://nepassisttool.epa.gov/nepassist/entry.aspx> Maps, site inspections and documentation from the local planning department may also be useful in making your determination.

☐ No ☐ Yes

- **Are there any underground storage tanks (not including residential fuel tanks) on or near the property?**

For projects in Washington State, visit: [www.ecy.wa.gov/programs/tcp/ust-lust/tanks.html](http://www.ecy.wa.gov/programs/tcp/ust-lust/tanks.html).

Consider past uses of the property when making your determination.

☐ No ☐ Yes

- **Is the property known or suspected to be contaminated by toxic chemicals or radioactive materials?**

☐ No ☐ Yes

☐ Yes to any of the above questions: PROCEED to #2.

☐ No to all questions: The toxic chemicals and radioactive materials review is complete, unless there are other hazards that could affect the health and safety of occupants. Record your determination on the Site-Specific Field Checklist, and maintain appropriate documentation in the ERR.

#### 2. ***Could nearby toxic, hazardous or radioactive substances affect the health and safety of project occupants or conflict with the intended utilization of the property?***

Gather all pertinent information concerning any on-site and nearby toxic hazards. Consider, at a minimum, each of the areas identified in Question 2. Consider if your ASTM Phase 1 or equivalent analysis identifies any Recognized Environmental Conditions (RECs)? If appropriate and/or required, obtain independent professional reviews of the site (e.g., an ASTM Phase 2 or equivalent analysis). Contact appropriate Federal, State and Local resources for assistance in assessing exposure to health hazards.

☐ Yes: STOP: Housing Repair cannot fund this project.

☐ No: The toxic chemicals and radioactive materials review is complete, unless there are other hazards that could affect the health and safety of occupants. Record your determination on the Site-Specific Field Checklist, and maintain appropriate documentation in the ERR.

**ER Comments:**



King County

# Environmental Review Record

## King County Housing Repair Program

(Updated November 2025)

### Noise Abatement and Control

| General requirements                                                                                                                                       | Legislation                                                                                                                                 | Regulation                                        |
|------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------|
| Encourage land use patterns for housing and other noise sensitive urban needs that will provide a suitable separation between them and major noise sources | Noise Control Act of 1972<br>The Quiet Communities Act of 1978 as amended<br>OMB Circular 75-2, "Comparable Land Uses at Federal Airfields" | 24 CFR Part 51<br>Subpart B<br>Noise<br>Guidebook |

1. **Is the project located within 1,000 feet of a busy road or highway, 3,000 feet of a railroad, or 15 miles of a civil airport or military airfield? Are there any other potential noise sources in the project vicinity that could produce a noise level above HUD's acceptable range, including but not limited to concert halls, night clubs, event facilities, etc.... ?**

☐ Maintain, in your ERR, a map that identifies the location of any noise sources.

☐ No: STOP here. Record your determination. You do not need to calculate a specific noise level.

☐ Yes: King County Housing Repair Program repairs are minor in nature. The County will consult and encouraging homeowners to take steps to mitigate excess noise. We will discuss low cost options that will impact and reduce noise generated from busy roadways, railways, and airports. This includes noise sources in the projects vicinity that could produce a noise level above HUD's acceptable range, including but not limited to concert halls, night clubs, event facilities, etc.

**HUD defines substantial improvement as any repair, reconstruction, modernization or improvement of a structure, the cost of which equals or exceeds 50% of the market value before the improvement (and before any damage occurred.)**

**PROCEED TO THE NEXT SECTION.**



King County

Environmental Review Record  
King County Housing Repair Program  
*(Updated November 2025)*

Endangered Species Act

| General requirements                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Legislation                                                                                              | Regulation        |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------|-------------------|
| Section 7 of the Endangered Species Act (ESA) mandates that federal agencies ensure that actions that they authorize, fund, or carry out shall not jeopardize the continued existence of federally listed plants and animals or result in the adverse modification or destruction of designated critical habitat. Where their actions may affect resources protected by the ESA, agencies must consult with the Fish and Wildlife Service and/or the National Marine Fisheries Service (“FWS” and “NMFS” or “the Services”). | <b>Endangered Species Act</b><br>Endangered Species Act of 1973, particularly section 7; 50 CFR Part 402 | 24 CFR<br>58.5(e) |

Please complete both HUD Region X United States Fish and Wildlife Service and National Marine Fisheries Service (the Services) Checklists.

Does the Project Meet Table A Parameters for Both Checklists “No Effect?”

- ☐ No: King County Housing Repair Program repairs are minor in nature. The County will commence informal consultation with the Services to determine whether formal consultation is required.
- ☐ Yes: STOP here. Record your determination. The project is in compliance with this regulation.

ER Comments:



King County

**Environmental Review Record**  
**King County Housing Repair Program**  
*(Updated November 2025)*

Determination:

The Project is in Compliance with Laws and Authorities of this Tier 3 Review.

|                       |       |                         |                            |
|-----------------------|-------|-------------------------|----------------------------|
| Preparer (signature): | Date: | Supervisor (signature): | Date:<br><b>11/24/2025</b> |
|-----------------------|-------|-------------------------|----------------------------|

**Request for Tier 3 Site-Specific Environmental Review (ER)****PROGRAM NAME (KC TASK #)***(to be completed by Minor Home Repair staff)*

This Form shall be resubmitted if: Project Scope changes AND/OR the work will occur 3 months or more **after** the County has issued Notice to Proceed

Resident's Name:

Project Address:

Project Description:

**1. Age of House:** Was the house/building built before January 1, 1978?

- ☐ **Yes.** Complete *Lead Based Paint (LBP)* Supplementary Checklist and submit to King County Staff along with the ER Record. Proceed to #2.
- ☐ **No.** Proceed to #2.

**2. Maintenance:** The project involves *only* one or more "maintenance" activities listed on pages 2-4. Or a maintenance activity listed in [HUD CPD-16-02](#)

- ☐ **Yes.** Check relevant box(es) on pages 2-4, email to King County Project Manager, (name@kingcounty.gov), do not approve any work until you receive a Notice To Proceed from King County Community Development (CD) staff. Keep all transmittals and the NTP on file. Do not fill out #3.
- ☐ **No.** Proceed to #3.

**Submit:**

|                                              |                                                           |
|----------------------------------------------|-----------------------------------------------------------|
| <u>This completed Form</u>                   | <u>Parcel #</u>                                           |
| <u>Is Project cost estimate &lt;\$3,000?</u> | <u>KC Assessors Property/Parcel Record</u>                |
| <u>Year Built</u>                            | <u>OR: Mobile Home Proof of Title*</u>                    |
|                                              | * WA State DOL <i>Registration</i> is NOT proof of title. |

**3. Rehabilitation:** HCD staff will complete a more extensive Tier 3 Rehab Review. Email the following to HCD staff, and do not approve any work until you have received HCD's Notice To Proceed:

|                                                          |                     |
|----------------------------------------------------------|---------------------|
| <b>Request Made by MHR City Staff (sign &amp; date):</b> | <b><u>Date:</u></b> |
|----------------------------------------------------------|---------------------|

**Environmental Finding:** ☒ Tiered review used.

Determination:

- ☐ **Approved.** The activity has been identified as "Maintenance Activities" per CPD -16-02, *Guidance for Categorizing as Activity as Maintenance for Compliance with HUD Environmental Regulations, 24 CFR Part 50 and 58 (02/08/2016)*. As such, all activities are Categorically Excluded Not Subject to 58.5, per 24 CFR 58.35(b)(3), Maintenance.
- ☐ **Needs Further Review and Documentation.** Submit information indicated in item 3 above to move forward for this review and subsequent determination and mitigation measures.

**Certification of ER Review and Clearance - NOTICE TO PROCEED**

**Responsible Entity Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Name, Title: Project Manager Name, Project Manager for KC Community Development**

HUD DETERMINED MAINTENANCE ACTIVITIES vs. REHABILITATION ACTIVITIES  
FOR ENVIRONMENTAL REVIEW PURPOSES

| <b>Feature/<br/>System</b>                                                                                                                                                                                                                                                                                                                                                                                                 | <b>Maintenance</b> | <b>Rehabilitation</b>                                                                                                                                                                               |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b><u>Site:</u></b>                                                                                                                                                                                                                                                                                                                                                                                                        |                    |                                                                                                                                                                                                     |
| <input type="checkbox"/> Repair of cracked or broken sidewalks                                                                                                                                                                                                                                                                                                                                                             |                    | <input type="checkbox"/> <i>New landscaping throughout an area</i><br><input type="checkbox"/> <i>Construction of new walkways, driveways or parking areas, or replacement thereof</i>              |
| <b><u>Building Exterior:</u></b>                                                                                                                                                                                                                                                                                                                                                                                           |                    |                                                                                                                                                                                                     |
| <input type="checkbox"/> Cleaning & fixing gutters & downspouts<br><input type="checkbox"/> Repainting previously painted surfaces (including limited wet scraping & low-pressure washing)<br><input type="checkbox"/> Replacing deteriorated section of siding                                                                                                                                                            |                    | <input type="checkbox"/> <i>Applying new exterior siding</i><br><input type="checkbox"/> <i>Cleaning masonry or stripping painted surfaces by sandblasting, acid wash, or high pressure washing</i> |
| <b><u>Roof:</u></b>                                                                                                                                                                                                                                                                                                                                                                                                        |                    |                                                                                                                                                                                                     |
| <input type="checkbox"/> Fixing leaks<br><input type="checkbox"/> Application of waterproof coating to a flat roof<br><input type="checkbox"/> Replacement of deteriorated flashing<br><input type="checkbox"/> In-kind replacement of loose or missing shingles or tiles                                                                                                                                                  |                    | <input type="checkbox"/> <i>Installation of solar panels</i><br><input type="checkbox"/> <i>Complete replacement of roof with new shingles, tiles, roll roofing, membrane, or new metal roof</i>    |
| <b><u>Windows &amp; Doors:</u></b>                                                                                                                                                                                                                                                                                                                                                                                         |                    |                                                                                                                                                                                                     |
| <input type="checkbox"/> Caulking, weather stripping, re-glazing windows and doors<br><input type="checkbox"/> Fixing broken windowpanes, storm windows or damaged entry door<br><input type="checkbox"/> Replacing broken door lock<br><input type="checkbox"/> Replacing a vandalized entry door to restore security of a building or unit<br><input type="checkbox"/> Replacing single severely damaged window to match |                    | <input type="checkbox"/> <i>Replacement of windows</i><br><input type="checkbox"/> <i>Replacement of exterior doors</i><br><input type="checkbox"/> <i>Adding storm windows or storm doors</i>      |

**Interior Walls & Ceilings:**

- ☐ Patching or mending cracked plaster
- ☐ Patching or fixing holes or cracks in drywall
- ☐ Replacing stained ceiling tiles
- ☐ Painting or wallpapering

- ☐ *Installation of new drywall or paneling*
- ☐ *Installation of new acoustical ceiling*
- ☐ *Installation of dropped ceilings*

**Flooring:**

- ☒ Installation or replacement of carpeting or vinyl flooring\*

- ☐ *Installation of new wood floor*

**Circulation:**

- ☐ In-kind replacement of broken stair treads or balusters

- ☐ *Rebuilding stair or constructing new stair*
- ☐ *Installation of new access ramp*
- ☐ *Elevator replacement*

**Kitchen:**

- ☐ Replacing cabinet hardware \*

- ☐ *Complete or substantial kitchen remodel*

**Bathroom / Laundry:**

- ☐ Unclogging sink or toilet
- ☐ Replacing deteriorated toilet in an occupied housing unit \*
- ☐ Installation of grab bars

- ☐ *Complete or substantial bathroom remodel*

**HVAC:**

- ☐ Servicing and maintenance of mechanical systems
- ☐ Changing air filters
- ☐ Cleaning air ducts
- ☐ Replacing a malfunctioning part of a HVAC system like a thermostat \*

- ☐ *Installation of new furnace or heat distribution system*
- ☐ *Installation of a central air conditioning*

**Electrical / Lighting:**

- ☐ Changing light bulbs
- ☐ Replacing malfunctioning light fixture, electrical switch or outlet \*

- ☐ *Major rewiring of building*
- ☐ *Installation of new electrical service*
- ☐ *Replacing or moving electrical panels*

**Plumbing:**

- ☐ Fixing plumbing leaks \*
- ☐ Repairing damage from frozen pipes \*

- ☐ *Installation of new plumbing system*
- ☐ *New water or sewer connection*

- ☐ Repairing water or sewer connection within existing utility trench alignment
- ☐ Replacing malfunctioning water heater \*

### **Security:**

- ☐ Repair of security alarm systems
- ☐ Installation of security devices needed for an individual health facility patient

### **Life Safety**

- ☐ Servicing smoke, fire and CO detectors
- ☐ Installation of smoke, fire and CO detectors

### **Pest Infestation**

- ☐ Pest inspection / treatment

### **Other**

- ☐ Description:

*Installation of permanent security bollards*

*Installation of new security alarm system*

*Making substantial physical changes to a building to comply with fire and life safety codes*

*Installing fire suppression system*

\* = These maintenance items may require purchase of flood insurance if they occur in a Special Flood Hazard Area (SFHA) and costs exceed the standard deductible for the specific type of structure or unit under the National Flood Insurance Program (NFIP).

The Environmental Review Record shall contain all the environmental review documents, public notices and written determinations or environmental findings required by this part as evidence of review, decision making and actions pertaining to a particular project of a recipient. It is to be prepared in conjunction with the Statutory Checklist, and the Environmental Assessment, if applicable. Complete items 1 through 9 as appropriate for all projects. If, under item 9, the project is exempt (§58.34) or categorical excluded (§58.35(b)), do not proceed to the Statutory Checklist or the Environmental Assessment. If project requires Release of Funds (ROF) from HUD, attach RROF affidavit of publication and ROF letter.

**-Form Update: November 2025**



## ER Level of Review Determination:

|             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| “√”<br>Here | 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. If project does not meet requirements listed below, leave blank                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|             | <p><b>3. Rehabilitation of buildings and improvements under the following conditions</b></p> <p><b>i. In the case of a building for residential use (with one to four units), the density is not increased beyond four units, the land use is not changed, and the footprint of the building is not increased in a floodplain or in a wetland;</b></p> <p>ii. In the case of multifamily residential buildings:</p> <p>A. Unit density is not changed more than 20%;</p> <p>B. The project does not involve changes in land use from residential to non-residential; and</p> <p>C. The estimated cost of rehab is less than 75% of the total estimated cost of replacement after rehab.</p> |

Site-Specific Statutory Checklist - Minor Home Repair (MHR) Program  
Use for MHR projects that are considered “repair” (vs. “maintenance”) and not “emergencies”.  
**Subrecipient/City Minor Home Repair (C19624)**

**Compliance with 24 CFR §58.5 and §58.6 Laws and Authorities**

| <b>Compliance Factors:</b><br>Statutes, Executive Orders,<br>and Regulations listed at 24<br>CFR §50.4, §58.5, and §58.6                                            | Are formal<br>compliance steps<br>or mitigation<br>required? | Compliance determination<br>(See Appendix A for source<br>determinations) |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------|---------------------------------------------------------------------------|
| <b>STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 58.6</b>                                                                                            |                                                              |                                                                           |
| <b>Airport Hazards</b><br>24 CFR part 51                                                                                                                            | <input type="checkbox"/> Yes <input type="checkbox"/> No     |                                                                           |
| <b>Flood Insurance</b><br><br>Flood Disaster Protection Act<br>of 1973 and National Flood<br>Insurance Reform Act of 1994<br>[42 USC 4001-4128 and 42<br>USC 5154a] | <input type="checkbox"/> Yes <input type="checkbox"/> No     |                                                                           |
| <b>Contamination and Toxic<br/>Substances</b><br><br>24 CFR 50.3(i) & 58.5(i)(2)]                                                                                   | <input type="checkbox"/> Yes <input type="checkbox"/> No     |                                                                           |
| <b>Endangered Species Act</b><br>Endangered Species Act of<br>1973, particularly section 7; 50<br>CFR Part 402                                                      | <input type="checkbox"/> Yes <input type="checkbox"/> No     |                                                                           |

|                                                                                                                                    |                                                          |  |
|------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------|--|
| <b>Historic Preservation</b><br><br>National Historic Preservation Act of 1966, particularly sections 106 and 110; 36 CFR Part 800 | <input type="checkbox"/> Yes <input type="checkbox"/> No |  |
|------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------|--|

|                                                                   |                                               |                                                                     |                                               |
|-------------------------------------------------------------------|-----------------------------------------------|---------------------------------------------------------------------|-----------------------------------------------|
| Preparer (signature):<br><br><br><br><br><br><br><br><br><br>Name | Date:<br><br><br><br><br><br><br><br><br><br> | Supervisor (signature):<br><br><br><br><br><br><br><br><br><br>Name | Date:<br><br><br><br><br><br><br><br><br><br> |
|-------------------------------------------------------------------|-----------------------------------------------|---------------------------------------------------------------------|-----------------------------------------------|

10. **For projects with ground disturbance:** add an Unanticipated Discovery Plan to the end of this checklist for the Subrecipient to keep on hand and distribute to their Developer.
11. Summary of environmental review: **For Approved Tier 4, project complies with all regulations, and does not require mitigation measures. This also serves as Subrecipient/City MHR Notice To Proceed.**

## Airport Hazards (CEST and EA)

| General policy                                                                                                                                    | Legislation | Regulation               |
|---------------------------------------------------------------------------------------------------------------------------------------------------|-------------|--------------------------|
| It is HUD's policy to apply standards to prevent incompatible development around civil airports and military airfields.                           |             | 24 CFR Part 51 Subpart D |
| References                                                                                                                                        |             |                          |
| <a href="https://www.hudexchange.info/environmental-review/airport-hazards">https://www.hudexchange.info/environmental-review/airport-hazards</a> |             |                          |

### 1. To ensure compatible land use development, you must determine your site's proximity to civil and military airports. Is your project within 15,000 feet of a military airport or 2,500 feet of a civilian airport?

☐ No → *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide a map showing that the site is not within the applicable distances to a military or civilian airport.*

☐ Yes → *Continue to Question 2.*

### 2. Is your project located within a Runway Potential Zone/Clear Zone (RPZ/CZ) or Accident Potential Zone (APZ)?

☐ Yes, project is in an APZ → *Continue to Question 3.*

☐ Yes, project is an RPZ/CZ → *Project cannot proceed at this location.*

☐ No, project is not within an APZ or RPZ/CZ

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide a map showing that the site is not within either zone.*

### 3. Is the project in conformance with DOD guidelines for APZ?

☐ Yes, project is consistent with DOD guidelines without further action.

**Explain how you determined that the project is consistent:**

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide any documentation supporting this determination.*

☐ No, the project cannot be brought into conformance with DOD guidelines and has not been approved.

→ *Project cannot proceed at this location.*

- ☐ Project is not consistent with DOD guidelines, but it has been approved by Certifying Officer or HUD Approving Official.

**Explain approval process:**

**If mitigation measures have been or will be taken, explain in detail the proposed measures that must be implemented to mitigate for the impact or effect, including the timeline for implementation.**

➔ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide any documentation supporting this determination.*

**Worksheet Summary**

**Compliance Determination**

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

According to the NEPA Assist map located in the supplementary page below, this project is in compliance with Airport hazards as it is outside of the minimum distance from a civilian or military airport. (JB Lewis-McChord is over 35 miles to the south)

**Are formal compliance steps or mitigation required?**

- ☐ Yes  
☒ No

## Flood Insurance (CEST and EA)

| General requirements                                                                                                                                                                                    | Legislation                                                         | Regulation                                                    |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|---------------------------------------------------------------|
| Certain types of federal financial assistance may not be used in floodplains unless the community participates in National Flood Insurance Program and flood insurance is both obtained and maintained. | Flood Disaster Protection Act of 1973 as amended (42 USC 4001-4128) | 24 CFR 50.4(b)(1) and 24 CFR 58.6(a) and (b); 24 CFR 55.1(b). |
| Reference                                                                                                                                                                                               |                                                                     |                                                               |
| <a href="https://www.hudexchange.info/environmental-review/flood-insurance">https://www.hudexchange.info/environmental-review/flood-insurance</a>                                                       |                                                                     |                                                               |

**1. Does this project involve financial assistance for construction, rehabilitation, or acquisition of a mobile home, building, or insurable personal property?**

☐ No. This project does not require flood insurance or is excepted from flood insurance. → *Continue to the Worksheet Summary.*

☐ Yes → *Continue to Question 2.*

**2. Provide a FEMA/FIRM map showing the site.**

The Federal Emergency Management Agency (FEMA) designates floodplains. The [FEMA Map Service Center](#) provides this information in the form of FEMA Flood Insurance Rate Maps (FIRMs). For projects in areas not mapped by FEMA, use the best available information to determine floodplain information. Include documentation, including a discussion of why this is the best available information for the site. Provide FEMA/FIRM floodplain zone designation, panel number, and date within your documentation.

**Is the structure, part of the structure, or insurable property located in a FEMA-designated Special Flood Hazard Area?**

☐ No → *Continue to the Worksheet Summary.*

☐ Yes → *Continue to Question 3.*

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

☐ Yes, the community is participating in the National Flood Insurance Program.

For loans, loan insurance or loan guarantees, flood insurance coverage must be continued for the term of the loan. For grants and other non-loan forms of financial assistance, flood insurance coverage must be continued for the life of the building irrespective of the transfer of ownership. The amount of coverage must equal the total project cost or the maximum coverage limit of the National Flood Insurance Program, whichever is less.

Provide a copy of the flood insurance policy declaration or a paid receipt for the current annual flood insurance premium and a copy of the application for flood insurance.

→ *Continue to the Worksheet Summary.*

- ☐ Yes, less than one year has passed since FEMA notification of Special Flood Hazards.  
If less than one year has passed since notification of Special Flood Hazards, no flood Insurance is required.  
→ *Continue to the Worksheet Summary.*

- ☐ No. The community is not participating, or its participation has been suspended.  
Federal assistance may not be used at this location. Cancel the project at this location.

### **Worksheet Summary**

#### **Compliance Determination**

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

#### **Are formal compliance steps or mitigation required?**

- ☐ Yes  
☐ No

## Toxic Chemicals Site Contamination and Toxics (Single Family Properties)

| General requirements                                                                                                                                                                                                                                                                                                     | Legislation | Regulations                         |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|-------------------------------------|
| It is HUD policy that all properties that are being proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of the occupants or conflict with the intended utilization of the property. |             | 24 CFR 58.5(i)(2)<br>24 CFR 50.3(i) |
| Reference                                                                                                                                                                                                                                                                                                                |             |                                     |
| <a href="https://www.hudexchange.info/programs/environmental-review/site-contamination">https://www.hudexchange.info/programs/environmental-review/site-contamination</a>                                                                                                                                                |             |                                     |

**1. Evaluate the site for contamination. Were any on-site or nearby toxic, hazardous, or radioactive substances found that could affect the health and safety of project occupants or conflict with the intended use of the property?**

Provide a map or other documentation of absence or presence of contamination<sup>1</sup> and explain evaluation of site contamination in the Worksheet below.

☐ Yes

**Explain:**

→ Describe the findings, including any recognized environmental conditions (RECs), in Worksheet Summary below. Continue to Question 2.

Check here if an ASTM Phase I Environmental Site Assessment (ESA) report was utilized. [Note: HUD regulations does not require an ASTM Phase I ESA report for single family homes]

☐ No

→ Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below.

<sup>1</sup> Utilize EPA's Enviromapper and state/tribal databases to identify nearby dumps, junk yards, landfills, hazardous waste sites, and industrial sites, including EPA National Priorities List Sites (Superfund sites), CERCLA or state-equivalent sites, RCRA Corrective Action sites with release(s) or suspected release(s) requiring clean-up action and/or further investigation. Additional supporting documentation may include other inspections and reports.

## 2. Mitigation

Document the mitigation needed according to the requirements of the appropriate federal, state, tribal, or local oversight agency. If the adverse environmental mitigation cannot be mitigated, then HUD assistance may not be used for the project at this site.

### Can adverse environmental impacts be mitigated?

☐ Adverse environmental impacts cannot feasibly be mitigated

→ Project cannot proceed at this location.

☐ Yes, adverse environmental impacts can be eliminated through mitigation.

→ *Provide all mitigation requirements<sup>2</sup> and documents. Continue to Question 3.*

## 3. Describe how compliance was achieved. Include any of the following that apply: State Voluntary Clean-up Program, a No Further Action letter, use of engineering controls<sup>3</sup>, or use of institutional controls<sup>4</sup>.

### If a remediation plan or clean-up program was necessary, which standard does it follow?

☐ Complete removal

☐ Risk-based corrective action (RBCA)

☐ Other

→ *Continue to the Worksheet Summary.*

---

<sup>2</sup> Mitigation requirements include all clean-up actions required by applicable federal, state, tribal, or local law.

Additionally, provide, as applicable, the long-term operations and maintenance plan, Remedial Action Work Plan, and other equivalent documents.

<sup>3</sup> Engineering controls are any physical mechanism used to contain or stabilize contamination or ensure the effectiveness of a remedial action. Engineering controls may include, without limitation, caps, covers, dikes, trenches, leachate collection systems, signs, fences, physical access controls, ground water monitoring systems and ground water containment systems including, without limitation, slurry walls and ground water pumping systems.

<sup>4</sup> Institutional controls are mechanisms used to limit human activities at or near a contaminated site, or to ensure the effectiveness of the remedial action over time, when contaminants remain at a site at levels above the applicable remediation standard which would allow for unrestricted use of the property. Institutional controls may include structure, land, and natural resource use restrictions, well restriction areas, classification exception areas, deed notices, and declarations of environmental restrictions.

## **Worksheet Summary**

### **Compliance Determination**

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

### **Are formal compliance steps or mitigation required?**

☐ Yes

☐ No

## Endangered Species Act (CEST and EA)

| General requirements                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | ESA Legislation                                                                                            | Regulations     |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|-----------------|
| Section 7 of the Endangered Species Act (ESA) mandates that federal agencies ensure that actions that they authorize, fund, or carry out shall not jeopardize the continued existence of federally listed plants and animals or result in the adverse modification or destruction of designated critical habitat. Where their actions may affect resources protected by the ESA, agencies must consult with the Fish and Wildlife Service and/or the National Marine Fisheries Service ("FWS" and "NMFS" or "the Services"). | The Endangered Species Act of 1973 (16 U.S.C. 1531 <i>et seq.</i> ); particularly section 7 (16 USC 1536). | 50 CFR Part 402 |
| References                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                            |                 |
| <a href="https://www.hudexchange.info/environmental-review/endangered-species">https://www.hudexchange.info/environmental-review/endangered-species</a>                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                            |                 |

### 1. Does the project involve any activities that have the potential to affect species or habitats?

- ☐ No, the project will have No Effect due to the nature of the activities involved in the project.  
 → *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide any documents used to make your determination.*

- ☐ No, the project will have No Effect based on a letter of understanding, memorandum of agreement, programmatic agreement, or checklist provided by local HUD office.  
 Explain your determination:

Per detailed project description and consultation with NMFS, there will be No Effect.  
 See attached checklists from NMFS and USFW.

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide any documents used to make your determination.*

- ☐ Yes, the activities involved in the project have the potential to affect species and/or habitats. → *Continue to Question 2.*

### 2. Are federally listed species or designated critical habitats present in the action area?

Obtain a list of protected species from the Services. This information is available on the [FWS Website](#) or you may contact your [local FWS](#) and/or [NMFS](#) offices directly.

- ☐ No, the project will have No Effect due to the absence of federally listed species and designated critical habitat.

→ *Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide any documents used to make your determination. Documentation may include letters from the Services, species lists from the Services' websites, surveys or other documents and analysis showing that there are no species in the action area.*

☐ Yes, there are federally listed species or designated critical habitats present in the action area. →  
Continue to Question 3.

**3. What effects, if any, will your project have on federally listed species or designated critical habitat?**

☐ No Effect: Based on the specifics of both the project and any federally listed species in the action area, you have determined that the project will have absolutely no effect on listed species or critical habitat.  
→ Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide any documents used to make your determination. Documentation should include a species list and explanation of your conclusion, and may require maps, photographs, and surveys as appropriate.

☐ May Affect, Not Likely to Adversely Affect: Any effects that the project may have on federally listed species or critical habitats would be beneficial, discountable, or insignificant.  
→ Continue to Question 4, Informal Consultation.

☐ Likely to Adversely Affect: The project may have negative effects on one or more listed species or critical habitat.  
→ Continue to Question 5, Formal Consultation.

**4. Informal Consultation is required**

Section 7 of ESA (16 USC. 1536) mandates consultation to resolve potential impacts to endangered and threatened species and critical habitats. If a HUD-assisted project may affect any federally listed endangered or threatened species or critical habitat, then compliance is required with Section 7. See 50 CFR Part 402 Subpart B Consultation Procedures.

**Did the Service(s) concur with the finding that the project is Not Likely to Adversely Affect?**

☐ Yes, the Service(s) concurred with the finding.  
→ Based on the response, the review is in compliance with this section. Continue to Question 6 and provide the following:

- (1) A biological evaluation or equivalent document
- (2) Concurrence(s) from FWS and/or NMFS
- (3) Any other documentation of informal consultation

*Exception: If finding was made based on procedures provided by a letter of understanding, memorandum of agreement, programmatic agreement, or checklist provided by local HUD office, provide whatever documentation is mandated by that agreement.*

☐ No, the Service(s) did not concur with the finding. → Continue to Question 5.

**5. Formal consultation is required**

Section 7 of ESA (16 USC 1536) mandates consultation to resolve potential impacts to federally listed endangered and threatened species and critical habitats. If a HUD assisted project may affect any endangered or threatened species or critical habitat, then compliance is required with Section 7. See 50 CFR Part 402 Subpart B Consultation Procedures.

→ Once consultation is complete, the review is in compliance with this section. Continue to Question 6 and provide the following:

- (1) A biological assessment, evaluation, or equivalent document

(2) *Biological opinion(s) issued by FWS and/or NMFS*

(3) *Any other documentation of formal consultation*

**6. For the project to be brought into compliance with this section, all adverse impacts must be mitigated. Explain in detail the proposed measures that will be implemented to mitigate for the impact or effect, including the timeline for implementation.**

☐ Mitigation as follows will be implemented:

☐ No mitigation is necessary.

**Explain why mitigation will not be made here:**

### **Worksheet Summary**

#### **Compliance Determination**

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

<https://ecos.fws.gov/ipac/>

**(NOAA Species Mapper)**

**Are formal compliance steps or mitigation required?**

☐ Yes

☐ No

**Historic Preservation (CEST and EA)**

| General requirements                                                                                                                                                                                                            | Legislation                                                            | Regulation                                                     |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------|----------------------------------------------------------------|
| Regulations under Section 106 of the National Historic Preservation Act (NHPA) require a consultative process to identify historic properties, assess project impacts on them, and avoid, minimize, or mitigate adverse effects | Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) | <a href="#">36 CFR 800 "Protection of Historic Properties"</a> |
| <b>References</b>                                                                                                                                                                                                               |                                                                        |                                                                |
| <a href="https://www.hudexchange.info/environmental-review/historic-preservation">https://www.hudexchange.info/environmental-review/historic-preservation</a>                                                                   |                                                                        |                                                                |

**Threshold**

Is Section 106 review required for your project?

☐ No, because the project consists solely of activities listed as exempt in a Programmatic Agreement (PA). (See the [PA Database](#) to find applicable PAs.)

Either provide the PA itself or a link to it here. Mark the applicable exemptions or include the text here:

→ *Continue to the Worksheet Summary.*

☐ No, because the project consists solely of activities included in a No Potential to Cause Effects memo or other determination [36 CFR 800.3(a)(1)].

Either provide the memo itself or a link to it here. Explain and justify the other determination here:

→ *Continue to the Worksheet Summary.*

☐ Yes, because the project includes activities with potential to cause effects (direct or indirect). → *Continue to Step 1.*

**The Section 106 Process**

After determining the need to do a Section 106 review, initiate consultation with regulatory and other interested parties, identify and evaluate historic properties, assess effects of the project on properties listed on or eligible for the National Register of Historic Places, and resolve any adverse effects through project design modifications or mitigation.

Note that consultation continues through all phases of the review.

Step 1: Initiate consultation

Step 2: Identify and evaluate historic properties

Step 3: Assess effects of the project on historic properties

Step 4: Resolve any adverse effects

**Step 1 - Initiate Consultation**

The following parties are entitled to participate in Section 106 reviews: Advisory Council on Historic Preservation; State Historic Preservation Officers (SHPOs); federally recognized Indian tribes/Tribal Historic Preservation Officers (THPOs); Native Hawaiian Organizations (NHOs); local governments; and project grantees. The general public and individuals and organizations with a demonstrated interest in a project may participate as consulting parties at the discretion of the RE or HUD official. Participation varies with the nature and scope of a project. Refer to HUD's website for guidance on consultation, including the required timeframes for response. Consultation should begin early to enable full consideration of preservation options.

Use the [When To Consult With Tribes checklist](#) within [Notice CPD-12-006: Process for Tribal Consultation](#) to determine if you should invite tribes to consult on a particular project. Use the [Tribal Directory Assessment Tool \(TDAT\)](#) to identify tribes that may have an interest in the area where the project is located. Note that consultants may not initiate consultation with Tribes.

**Select all consulting parties below (check all that apply):**

☐ State Historic Preservation Officer (SHPO)

☐ Advisory Council on Historic Preservation

☐ Indian Tribes, including Tribal Historic Preservation Officers (THPOs) or Native Hawaiian Organizations (NHOs) ☐

**List all tribes that were consulted here and their status of consultation:**

☐ Other Consulting Parties

**List all consulting parties that were consulted here and their status of consultation:****Describe the process of selecting consulting parties and initiating consultation here:**

and continue to Step 2.

**Step 2 - Identify and Evaluate Historic Properties**

**Define the Area of Potential Effect (APE), either by entering the address(es) or providing a map depicting the APE.** Attach an additional page if necessary.

Gather information about known historic properties in the APE. Historic buildings, districts and archeological sites may have been identified in local, state, and national surveys and registers, local historic districts, municipal plans, town and county histories, and local history websites. If not already listed on the National Register of Historic Places, identified properties are then evaluated to see if they are eligible for the National Register.

Refer to HUD's website for guidance on identifying and evaluating historic properties.

**In the space below, list historic properties identified and evaluated in the APE.**

Every historic property that may be affected by the project should be listed. For each historic property or district, include the National Register status, whether the SHPO has concurred with the finding, and whether information on the site is sensitive. Attach an additional page if necessary.

Provide the documentation (survey forms, Register nominations, concurrence(s) and/or objection(s), notes, and photos) that justify your National Register Status determination.

**Was a survey of historic buildings and/or archeological sites done as part of the project?**

If the APE contains previously unsurveyed buildings or structures over 50 years old, or there is a likely presence of previously unsurveyed archeological sites, a survey may be necessary. For Archeological surveys, refer to HP Fact Sheet #6, [Guidance on Archeological Investigations in HUD Projects](#).

☒ Yes → *Provide survey(s) and report(s) and continue to Step 3.*

Additional notes:

☐ No → *Continue to Step 3.*

**Step 3 - Assess Effects of the Project on Historic Properties**

Only properties that are listed on or eligible for the National Register of Historic Places receive further consideration under Section 106. Assess the effect(s) of the project by applying the Criteria of Adverse Effect. ([36 CFR 800.5](#)) Consider direct and indirect effects as applicable as per HUD guidance.

**Choose one of the findings below - No Historic Properties Affected, No Adverse Effect, or Adverse Effect; and seek concurrence from consulting parties.**

☒ No Historic Properties Affected

**Document reason for finding:**

- ☐ No historic properties present. → *Provide concurrence(s) or objection(s) and continue to the Worksheet Summary.*

**Worksheet Summary**

**Compliance Determination**

Provide a clear description of your determination and a synopsis of the information that it was based on, such as:

- Map panel numbers and dates
- Names of all consulted parties and relevant consultation dates
- Names of plans or reports and relevant page numbers
- Any additional requirements specific to your region

See attached letter.

**Are formal compliance steps or mitigation required?**

- ☐ Yes  
☐ No

Appendices

NATIONAL MARINE FISHERIES SERVICE (NMFS) – HUD  
Washington State Consultation Guidance Update  
with Erratum Effective 9-21-2023

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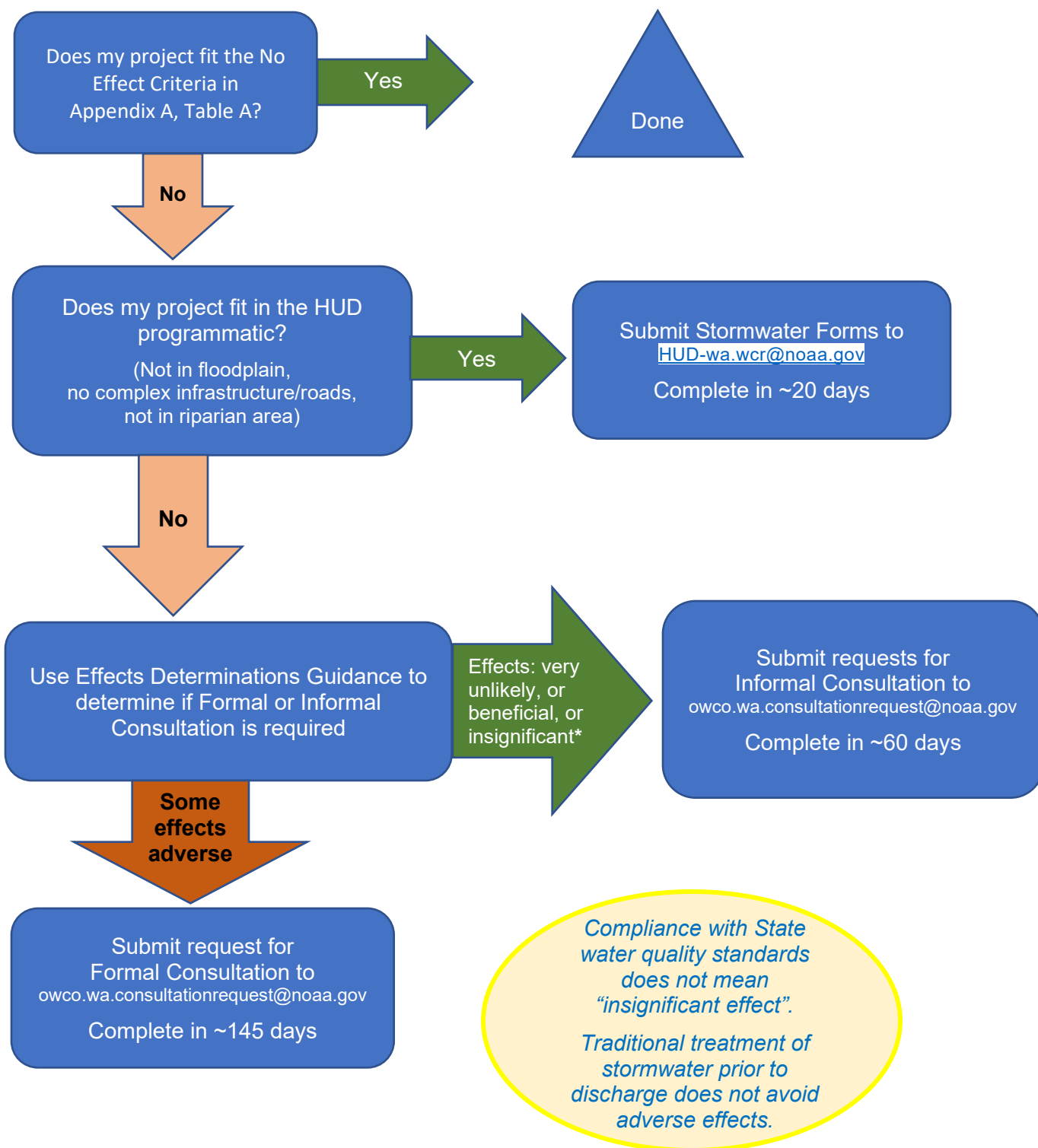
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## Appendices

### NMFS-ESA Compliance Pathway (flow-chart)

Flow Chart for determining Best NMFS ESA Compliance Pathway



## Appendices

## APPENDIX A:

### Consultation Guidance for ESA and EFH in Washington State

Prepared in collaboration with National Marine Fisheries Service  
**For use by Responsible Entities under 24 CFR Part 58 and  
 HUD under 24 CFR Part 50**

| General requirements                                                                                                                                                                                                                                                                            | Legislation                                                              | Responsible Agency            |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------|-------------------------------|
| Section 7(a) (2) of the Endangered Species Act (ESA) mandates that actions that are authorized, funded, or carried out by Federal jeopardize the continued existence of plants and animals that are listed or result in the adverse modification or destruction of designated critical habitat. | The Endangered Species Act of 1973; 16 U.S.C. 1531 et seq.               | NMFS and USFWS (the Services) |
| Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act requires Federal agencies to consult with NOAA Fisheries on any action that they authorize, fund, or undertake that may adversely affect essential fish habitat (EFH).                                        | Magnuson-Stevens Fishery Conservation and Management Act; 16 U.S.C. 1801 | NMFS only                     |

#### Purpose

The purpose of this guidance is to assist HUD and HUD's responsible entities (REs) in meeting their obligations under the Endangered Species Act (ESA), and the MSA/EFH consultation with NMFS where necessary. The guidance is designed to help you determine whether a proposed project will have an effect on federally-listed species, designated critical habitat, or essential fish habitat, and the process to follow based on those effect determinations.

**If HUD/RE determines that an action would have no effect, HUD/RE must document that determination in its project files, along with its supporting rationale.**

Consultation with NMFS is not required for no effect determinations. HUD or the RE are solely responsible for this determination and cannot defer responsibility to an external party. NMFS rarely issues any correspondence for a no effect determination, except when there is strong disagreement about that determination.

## Part I – Determine if the Project can Proceed as No Effect

### 1. Is the project activity type listed in Table A, and does the project meet all parameters and conditions listed for that project type?

| <b>Table A – Potential No Effect Categories and Required Criteria</b>           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|---------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Potential No Effect Activity Category</b> with required performance criteria |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Purchase building or property</b>                                            | <ul style="list-style-type: none"> <li>No change to existing structures.</li> <li>No new impervious surface area constructed.</li> <li>No modification to existing stormwater collection or drainage patterns.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Landscaping maintenance / improvement</b>                                    | <ul style="list-style-type: none"> <li>Does not result in fill of jurisdictional waters or the nation or waters of the state, except if proposed for the purposes of species habitat restoration or enhancement.<sup>1</sup></li> <li>Does not remove riparian<sup>1</sup> vegetation or trees within 150 feet of an aquatic resource.<sup>2</sup></li> <li>Any new plantings shall be comprised of native species approved by the local jurisdiction. No planting of invasive species is permitted.</li> <li>No use of pesticides, herbicides within 150 feet of an aquatic resource, or if precipitation is predicted, within 24 hours prior to heavy storm events.</li> <li>Outside lighting must not illuminate aquatic resources occupied by ESA-listed species.</li> <li>Does not increase hardscape area unless an equal area of impervious surface area is converted to pervious surface.</li> <li>Installation/maintenance of sprinkler irrigation systems, must direct spray away from pollution generating impervious surfaces.<sup>3</sup></li> <li>Removal/maintenance of hazard trees or similar vegetation is matched by an equivalent number of trees appropriate to the location are replaced.</li> </ul> |

<sup>1</sup> Riparian zones are the areas bordering rivers and other bodies of surface water. They include the floodplain as well as the riparian buffers adjacent to the floodplain. Riparian zones are visually defined by a greenbelt with a characteristic suite of plants that are adapted to and depend on the shallow water table.

<sup>2</sup> An aquatic resource, for the purposes of this opinion, includes: streams, rivers, ponds, lakes, wetlands, estuaries, bays, or other tidally influenced marine areas.

<sup>3</sup> A pollution generating surface, as used in this opinion, is a surface upon which motorized vehicles travel. Examples include, but are not limited to: parking lots, driveways, and roads.

## Appendices

### Potential No Effect Activity Category with required performance criteria

#### Interior rehabilitation

- Applies only to existing structures.
- Access and staging, and source sites, have been assessed as part of the proposed action. The sites are located at least 150 feet away from any aquatic resources and include BMPs to prevent discharge of contaminants entering waterbodies or stormwater systems (e.g., filter fabrics in catch basins, sediment traps, etc.). No plantings of invasive species.
- Disposal sites are approved for materials to be received. Waste materials are recycled or otherwise disposed of in an EPA approved sanitary or hazardous waste disposal site.

#### Any exterior repair or improvement that will not increase post-construction runoff

- Does not increase amount (area) of impervious surface area.
- Does not replace existing roof with new hot tar roofing methods, torch down roofing method, treated wood, copper, or galvanized metal.<sup>4</sup>
- New or replacement roof-mounted HVAC (or similar mechanical systems) constructed from galvanized steel must be painted or physically covered to prevent exposure to precipitation.
- Does not replace existing siding with galvanized sheeting.
- Does not install, repair, or replace exterior artificial lighting on properties adjacent to aquatic resources that support ESA-listed or MSA managed (Pacific salmonids or groundfish) species.
- Complies with all state and local building codes and stormwater regulations.
- Disposal sites are approved for materials to be received. Waste materials are recycled or otherwise disposed of in an approved sanitary or hazardous waste disposal site.
- Exterior repair or improvements to an existing structure located within a Special Flood Hazard Area (100-year floodplain), does not increase structure footprint/does not reduce the amount of flood storage capacity, or remove native riparian vegetation.
- Access and staging, and source sites have been assessed as part of the proposed action. The sites are located at least 150 feet away from the aquatic resource and include BMPs to prevent discharge of contaminants from entering waterbodies or stormwater systems (e.g., filter fabrics in catch basins, sediment traps, etc.).

☐ **If YES**, the project is listed in Table A and it meets all parameters and Conditions, then the project has No Effect; **NMFS (ESA or EFH) consultation is NOT required.**

*Note that there are no ESA listed fish in Ferry, Stevens, Pend Oreille, Lincoln, and Spokane Counties. No consultation is required for projects in these counties*

☐ **If NO**, then the project may affect Designated Critical Habitat (ESA) or Essential Fish Habitat (EFH) and **NMFS consultation IS required. Go to Part II.**

<sup>4</sup> Galvanized flashing, gutters, or fasteners may be utilized as part of roofing systems, so long as they are coated or painted to prevent exposure to precipitation.

## Appendices

### Part II – Determine if the Project can Proceed under the Washington State Programmatic Opinion for HUD Actions in Washington State

#### 2. Does the project qualify for inclusion in the programmatic opinion issued to HUD?

Projects which are subject to any ONE (or more) of the following conditions do not qualify for inclusion in the WA State NMFS Programmatic Biological Opinion (HUD Programmatic).

**1. Is the project** (other than the outfall structure):

- ☐ 150 feet, or closer, to a shoreline or aquatic resources (or enters the riparian area)?

**2. Does the project:**

- ☐ Include large infrastructure projects such as new roads, new or expanded waste treatment facilities?
- ☐ Place floodplain fill of any kind or expand buildings into 100 year floodplains?
- ☐ Remove 5 or more acres of mature tree cover (trees larger than 6" dbh)?

☐ **If you checked any** of the above, HUD or the RE does not qualify for inclusion under the programmatic consultation process and *must seek individual consultation* with NMFS for ESA and/or EFH; **Proceed to Part III for Individual Consultation**

☐ **If you did not check any boxes**, the project qualifies for inclusion under the programmatic consultation process and will seek a **Programmatic Consultation**; **Proceed to Part IV for Programmatic Consultation guidance**:

1. Appendix B for information on LID methods to incorporate into each project,
2. Appendix C for information to support Traditional Stormwater Management,
3. Appendix D for Forms necessary for programmatic review and where/how to submit for consultation.

## Part III – Individual Consultation under Section 7

### Consultation Requirements

The ESA directs all federal agencies (the RE under 24 CFR Part 58) to utilize their authorities to conserve species listed as threatened or endangered (ESA Section 2(c)(1)), and to consult with the Services to ensure that their actions will not jeopardize listed species, or adversely modify habitat designated as critical for listed species. Formal or informal consultation is required when a project *May Effect* species or designated critical habitat.

The Magnuson-Stevens Act (MSA) directs federal agencies to consult if their actions (including funding or permitting) *will adversely affect* features of Essential Fish Habitat, including Habitat Areas of Particular Concern. EFH is designated rivers and streams that support Chinook and coho salmon, and estuaries that support salmon, groundfish, and pelagic species, to physical, biological and chemical characteristics necessary to support fish for feeding, spawning, breeding, and growth to maturity. These are locations such rivers, wetlands, and the estuaries

### Effects Determinations

Once “no effect” is ruled out, and inclusion under the Programmatic Biological Opinion is ruled out, individual consultation must occur for ESA, EFH, or both.

**EFH consultation** is required if there is any adverse effect, *even temporarily* that reduces quality and/or quantity of EFH. Adverse effect means direct or indirect physical, chemical, or biological alterations of the waters or substrate and loss of, or injury to, benthic organisms, prey species and their habitat, and other ecosystem components.

**ESA consultation** is either “Formal” or “Informal” consultation. *Both* require a written analysis to be submitted to the Service. This document is called a Biological Assessment (BA) for major construction activities that trigger NEPA, or a Biological Evaluation (BE) for smaller projects with fewer impacts. These terms are sometimes interchangeable, and the term BE will be used here.

A BE may serve multiple purposes, but the primary role is to document HUD/REs conclusions and the rationale to support those conclusions regarding the effects of the proposed actions on fish and fish habitat resources. Although there are no statutory or regulatory mandated contents, recommended elements are identified at 50 CFR §402.12(f).

HUD/REs typically do not have qualified staff to prepare a BE. It is recommended that HUD/RE hire a consultant (a biologist or otherwise qualified professional) to prepare the needed BE. It is also recommended that HUD/RE provide the consultant with NMFS/HUD WA State Biological Opinion Programmatic Agreement found at the [Region X website](#). Use of the recommended elements found at 50 CFR §402.12(f) and WA Programmatic content should guide a consultant to prepare a BE which will result in a successful Section 7 consultation.

This document is not an exclusive guide to preparing a BE. However, HUD/RE must understand how to initiate consultation with NMFS, therefore understanding the contents of the BE is critical in order for HUD/RE to request the correct level of consultation.

## Appendices

### If the conclusion of the BE is:

1. **“Not likely to adversely affect”** Means that all effects, temporary and permanent, on species or critical habitat are expected to be insignificant, discountable, or wholly beneficial.

- ✓ **Discountable effects** are those extremely unlikely to occur. Based on the best available scientific and commercial data, and judgment, a person would not expect discountable effects to occur.
- ✓ **Insignificant effects** relate to the magnitude of the impact and should never reach the scale where “take” occurs. “Take” is defined to include “harass,” and “harm.” *Harm* can occur if habitat is altered in a manner that diminishes important species behavior, such as breeding, feeding, or sheltering, to the degree that it injures even a single individual of the species. *Harass* includes activities that alter an individual’s behavior in a manner that increases the likelihood of it being injured. Based on best judgment, a person would not be able to meaningfully measure, detect, or evaluate insignificant effects.
- ✓ **Wholly beneficial effects** is very narrowly construed and cannot be interpreted to mean “better than before,” and cannot involve an analysis of net effects. All effects must be positive. If any adverse effect occurs, then the project is not wholly beneficial \*.

\* Meeting state water quality standards or adding treatment does not mean the project is “Not Likely to Adversely Affect”

- ☐ HUD/RE should seek **informal consultation** with the Service.

2. **“Likely to adversely affect,”** means that the action is likely to adversely affect the trust resource—as little as one individual fish or any feature of critical habitat (ie., water). In the case of uncertainty, the benefit of the doubt must be given in favor of protecting the trust resources.

- ☐ HUD/RE must seek **formal consultation** with the Service.

**How to Initiate NON-programmatic consultation:** submit your request for formal, informal and EFH consultation to:

- West of the Cascades submit electronic materials (BE and other relevant documents) to [owco.wa.consultationrequest@noaa.gov](mailto:owco.wa.consultationrequest@noaa.gov). This is a general email inbox that is monitored by NMFS for consultation requests.
- East of the Cascades, submit requests to [CRBO.ConsultationRequest.WCR@noaa.gov](mailto:CRBO.ConsultationRequest.WCR@noaa.gov)

**DO NOT** use the email address above if your project qualifies under the programmatic agreement; use submission instructions found in Appendix D.

For General Questions contact [Brian.Sturdivant@HUD.gov](mailto:Brian.Sturdivant@HUD.gov)

## Appendices

## Part IV – Confirmation of Project ESA/EFH Compliance under the Programmatic Consultation process

NMFS completed a program-level biological opinion on stormwater effects likely to occur with HUD-funded projects. To receive confirmation that your project fits within this programmatic consultation, and if any additional conditions apply, use the following Appendices to assist in preparing your submission to NMFS.

1. Use **Appendix B** to identify Low Impact Development (LID) methods that are or can be incorporated into the project to address stormwater generated by the project.
2. Use **Appendix C** to identify information necessary for NMFS review when projects have a Stormwater Management Plan to address some or all of the stormwater generated by the project.
3. Use **Appendix D** to ascertain how and where to submit your consultation request to NMFS.

**RE submits the ACTION NOTIFICATION FORM along with all supporting materials as instructed in Appendix D.**

## APPENDIX B:

### Materials and Landscape Design Criteria

#### to Satisfy Programmatic Terms and Conditions for Increased use of Low Impact Development (LID) Methods

LID Best Management Practices (BMPs) provide a combination of runoff treatment and/or flow control benefits and have additional hydrologic benefits. LID BMPs are installed for the purpose of mimicking the pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration. For infiltration BMPs sized to meet Runoff Treatment requirements, the BMP must successfully infiltrate 91% of the influent runoff. Sites that can fully infiltrate 91% of runoff are not required to provide additional Runoff Treatment or Flow Control BMPs<sup>5</sup>.

**ROOF AND GUTTERS (source control):** Based on information from Washington State Department of Ecology (2014), the following criteria are the applicable minimization measures for roofing and gutters:

- ☐ No use of copper roofing or treated wood shingle roofing.
- ☐ Galvanized metals in roofing or gutters must be painted to prevent rain from introducing zinc into the runoff. If paint begins to flake or peel, paint must be refreshed.
- ☐ Composite (3-tab) roofing without moss inhibitor is preferred for Single Family and Duplexes.
- ☐ Multifamily or commercial style buildings with rooftop HVAC equipment shall place such HVAC equipment under a roofed structure to prevent rain from introducing zinc into the runoff.

**ONSITE LID MANAGEMENT OF ROOF RUNOFF:** ground water recharge and reduction of runoff volumes): Roof Downspout BMPs include infiltration trenches, dry wells, and partial dispersion systems for use in individual lots, proposed plats, and short plats.

Downspout rain filter boxes should be incorporated into landscaping and building design to reduce metals and depositional contaminants from leaving the site in stormwater runoff (Skaloud 2016). Downspout rain filter box types include:

- ☐ Downspout filtration through amended soil rainboxes (e.g. Grattix Box or Splash Boxx).
- ☐ Green roof, blue roof, or eco roof are an acceptable alternative to downspout treatment

The Department of Ecology 2019 Stormwater Manual also recommends:

- ☐ Downspout full infiltration systems via vegetated trench or drywell where soils infiltrate well.

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<sup>5</sup> Where soils, or site constraints and building design, cannot accommodate LID approaches, or cannot infiltrate 91% of runoff, refer to Appendix C.

## Appendices

- ☐ Downspout dispersion where infiltration rates are slower. Examples are splash blocks and a vegetated flow path (i.e., lawn, landscape area, or vegetated buffer), or gravel filled trenches to slow runoff, allow some infiltration, and provide some water quality benefit.
- ☐ Perforated stub-out connections with gravel trench (not suitable when seasonal water table is less than 1 foot below trench bottom)

**HARDSCAPE:** (source control for driveways, sidewalks, and patios): Multiple sources indicate that infiltration through pervious materials is effective at minimizing runoff volume and pollutant load (Brattebo and Booth, 2003), even with relatively impervious subgrade soils (Fassman and Blackburn 2010), with the benefit of not requiring chemical treatment for de-icing in freezing conditions.

Hardscape areas shall incorporate pervious materials to the maximum extent possible. Appropriate pervious materials (See Drake et al., 2014; Alizadehtazi et al. 2016) are:

- ☐ Pervious Concrete
- ☐ Permeable interlocking concrete pavers
- ☐ Porous Asphalt

### **ONSITE LID STORMWATER MANAGEMENT OF POLLUTION GENERATING IMPERVIOUS SURFACE (PGIS) RUNOFF:** (Roads, cul-de-sacs, driveways, and above-ground parking lots):

Where the proposal includes access roads, or open-air parking for more than 4 vehicles, biofiltration should be incorporated into landscaping design to reduce contaminants from leaving the site in stormwater runoff (Hinmann and Washington Department of Ecology 2013). Options for biofiltration include:

- ☐ **Bioretention cells** Shallow depressions with a designed planting soil mix and a variety of plant material, including trees, shrubs, grasses, and/or other herbaceous plants. Bioretention cells may or may not have an underdrain and are not designed as a conveyance system.
- ☐ **Tree box filters/bioretention planters** Bioretention soil mix and a variety of plant material including trees, shrubs, grasses, and/or other herbaceous plants within a vertical walled container usually constructed from formed concrete but could include other materials. Planter boxes are completely impervious and include a bottom (must include an underdrain). Planters have an open bottom and allow infiltration to the subgrade. These designs are often used in urban settings.
- ☐ **Rain gardens** non-engineered, shallow, landscaped depressions with compost-amended soils and adapted plants. These temporarily store stormwater runoff from adjacent areas. A portion of the influent stormwater passes through the amended soil profile and into the native soil beneath. Stormwater that exceeds the storage capacity is designed to overflow to an adjacent drainage system.
- ☐ **Bioswales** Incorporate the same design features as bioretention cells; however, bioretention swales are designed as part of a system that can convey stormwater when maximum ponding depth is exceeded. Bioretention swales have relatively gentle side slopes and ponding depths that are typically 6 to 12 inches

## Appendices

### **OTHER LID:**

***Many product lines are commercially available for use in space-restricted sites or locations with poor drainage.***

**Additional Low-Impact Development (LID) Resource Documents are available at:**

Whole Building Design Guide, a program of the National Institute of Building Sciences,

<https://www.wbdg.org/>

<https://www.wbdg.org/resources/low-impact-development-technologies>

<https://www.wbdg.org/resources/wastewater-treatment-and-water-resource-recovery-facilities-wrrfs/storm-water>

## Appendices

### RESOURCES

- Alizadehtazi et al. 2016. Comparison of Observed Infiltration Rates of Different Permeable Urban Surfaces Using a Cornell Sprinkle Infiltrometer. J. of Hydrol. Eng. 06016003-1),
- Brattebo and Booth. 2003. Long-term stormwater quantity and quality performance of permeable pavement systems. Water Research 37:43694376)
- Drake et al. 2014. Stormwater quality of spring-summer-fall effluent from three partial infiltration permeable pavement systems and conventional asphalt pavement. Journal of Environmental Management 139:69-79)
- Fassman and Blackburn. 2010. Urban Runoff Mitigation by a Permeable Pavement System over Impermeable Soils” Journal of Hydrologic Engineering.
- Hinman, C. 2005. Low Impact Development: Technical Guidance Manual for Puget Sound. A Report for the Puget Sound Action Team and Washington State University, Pierce County Extension. Olympia, Washington. (January)
- Hinmann and Washington Dep’t of Ecology. 2013. Rain Garden Handbook for Western Washington; A guide for Design, Maintenance, and Installation
- National Association of Home Builders. 2003. The Practice of LID Development. A Report for HUD and the Partnership for Advancing Technology in Housing. 2003. Washington, D.C. (July)
- Skaloud. 2016. Stormwater treatment through planter boxes for contaminants originating from metal roofs at the Annacis Island Warehouse. University of British Columbia. Open Collections, Undergraduate Research.
- Transportation Research Board. 2006. National Cooperative Highway Research Program (NCHRP) Report 565. Evaluation of Best Management Practices for Highway Runoff Control. Washington, D.C.
- U.S. EPA. 2000. Low-Impact Development (LID): A Literature Review. Office of Water, Washington, D.C. (October)
- U.S. EPA. 2009. Managing Stormwater with Low Impact Development Practices: Addressing Barriers to LID <https://www3.epa.gov/region1/npdes/stormwater/assets/pdfs/AddressingBarrier2LID.pdf>
- U.S. EPA. Best Practices for the Design, Operation, and Maintenance of Green Infrastructure. Website. Accessed 2/13/2020 <https://www.epa.gov/water-research/best-practices-design-operation-and-maintenance-green-infrastructure>
- Washington State Department of Ecology. 2011. Technical Guidance Manual for Evaluating Emerging Stormwater Treatment Technologies: Technology Assessment Protocol – Ecology (TAPE). Lacey, Washington.
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- Washington State Department of Ecology. 2019. Stormwater Management Manual for Eastern Washington. Water Quality Program. Lacey, Washington. <https://fortress.wa.gov/ecy/ezshare/wq/Permits/Flare/2019SWMMEW/2019SWMMEW.htm>
- Washington State Department of Ecology Low Impact Development Technical Guidance for Western Washington. 2012. Lacey, Washington. [https://www.psp.wa.gov/downloads/LID/20121221\\_LIDmanual\\_FINAL\\_secure.pdf](https://www.psp.wa.gov/downloads/LID/20121221_LIDmanual_FINAL_secure.pdf)
- Washington State Department of Ecology Low Impact Development Guidance for Eastern Washington. 2013. Lacey, Washington. <https://fortress.wa.gov/ecy/publications/SummaryPages/1310036.html>

## **APPENDIX C:**

### **NMFS Stormwater Criteria for HUD Projects in Washington for use when site constraints prevent use of LID**

For projects that cannot meet infiltration criteria or on-site LID measure identified in Appendix B above, (pervious pavements, infiltration, bioswales, etc) the following information on stormwater treatment and management must be submitted for a complete, reviewable package:

#### **1. Design Storm:**

West of the Cascades, all stormwater treatment practices and facilities that result in off-site conveyance must be designed to accept and provide water quality treatment for the design storm, as through the use of the Western Washington Hydrology Model (WWHM)<sup>6</sup> or equivalent continuous flow model. East of the Cascades, use the Stormwater Management Manual for Eastern Washington (SWMMEW).<sup>7</sup>

#### **2. Stormwater Management Plan:**

- a. All plans, drawings, and the Stormwater Information Form (Appendix D) must be signed by a licensed, professional engineer.
- b. A site map for the project that identifies all:
  - i. Impervious areas;
  - ii. Manufactured stormwater treatment technologies by type and capacity;
  - iii. Other structural source control practices by type and capacity (e.g., special practices for known or suspected contaminated sites); and
  - iv. All runoff discharge points and conveyance paths to the nearest receiving water.
- c. A description of how those practices will manage all precipitation on-site up to the design storm and provide adequate treatment for runoff that will be discharged from the site.
- d. A description of the proposed maintenance activities and schedule for the treatment facilities including the party responsible maintenance and contact information for the responsible party.

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<sup>6</sup> <https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Stormwater-permittee-guidance-resources/Stormwater-manuals/Western-Washington-Hydrology-Model>

<sup>7</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/1810044.html>

## Appendices

- 3. Conveyance:** When conveyance is necessary to discharge treated stormwater directly into surface water or a wetland, the following requirements apply:
  - a. Maintain natural drainage patterns.
  - b. To the maximum extent feasible, ensure that water quality treatment for the HUD-funded project is completed before commingling with offsite runoff during conveyance.
  - c. Prevent erosion of the flow path from the project to the receiving water and, if necessary, provide a discharge facility made entirely of manufactured elements (e.g., pipes, ditches, discharge facility protection) that extends at least to ordinary high water.
  
- 4. Soils Report:** Please include documents that indicate soil types, strata, location of water table, infiltration rate and cation exchange rate.

## Appendices

# APPENDIX D: Action Notification Form and Email for Program Compliance for Use with the HUD Programmatic Opinion

March, 2022

### **Use of the HUD Programmatic E-mail Box**

Use the HUD programmatic e-mail box at [HUD-wa.wcr@noaa.gov](mailto:HUD-wa.wcr@noaa.gov) to:

1. request that NMFS review and confirm a HUD-funded project can be included under the programmatic (or if advised it cannot be included – to withdraw a request for review), and
2. to reply to any EFH recommendations provided by NMFS, and
3. to submit the project completion forms.

The mailbox will send you an automatic reply after receipt of any message, but you will not receive any other communication from the programmatic e-mail box. Please cc: [Frankie.Johnson@noaa.gov](mailto:Frankie.Johnson@noaa.gov) to ensure receipt.

Please direct all other communications or questions to the appropriate NMFS biologist or branch chief.

Please only submit one request for review, withdrawal, or completion report per e-mail (however, if a single project has many files or large files it require multiple emails, in which case, use the same project title for each). Please remember to attach all supporting information, including:

### **E-mail Title**

In the subject line of the email (see below for requirements), clearly identify the type of action you are requesting (i.e., Action Notification, Withdrawal, etc.), Project Name, Applicant (HUD Office or Responsible Entity) Name, County, and Waterway (to which the project will discharge).

Use caution when entering the necessary information in the subject line. If these titling conventions are not used, NMFS will not accept the e-mail.

Examples:

*Action Notification: HUD Project Name, Housing & Community Development, King County, Tolt River*

*Withdrawal: HUD Project Name, City of Tacoma, Pierce County, Puyallup River*

*Project Completion: HUD Project Name, Housing & Community Development, Thurston County, Nisqually River*

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**Action Notification and Stormwater Information Forms**

HUD or the RE must submit an Action Notification Form, a complete Stormwater Information Form, and a complete Post-construction Stormwater Management Plan (PCSMP) to the HUD programmatic e-mailbox to request that NMFS review and approve the PCSMP for a HUD project. Within 7 calendar days, NMFS will tell the requestor which staff person was assigned to complete the review, and within 30 calendar days NMFS will determine whether the proposed project can proceed under the programmatic, and if recommendations or conditions apply.

If asked, the consultation biologist will provide an estimate of the time necessary to complete the review based on the complexity of the proposed action and work load considerations at the time of the request. NMFS may delay its review if the Action Notification Form, the Stormwater Information Form, or the PCSMP is incomplete or unsatisfactory. Please contact NMFS early during the development phase of a project if you have any questions about how these guidelines may affect your project.

**Withdrawing a Request for Review**

If it is necessary to withdraw a request for review, submit a separate email with the word WITHDRAWN at the beginning of the e-mail subject line, but otherwise follow the email titling conventions as described above. State the reason for the withdrawal in the email. If HUD or an RE re-submits a request for NMFS review that has been previously withdrawn, NMFS will process the resubmittal as if it was a new action notification.

**Action Completion Report.** HUD or the RE must submit the Action Completion Form to NMFS within 60 days of finishing construction of the stormwater management facilities for a HUD project. Failure to submit the action completion form may result in NMFS recommending reinitiation of this consultation.

## Appendices

## Action Notification Form

### HUD PROGRAMMATIC OPINION

Submit this form with all supplemental information to NMFS prior to the anticipated completion of the project's environmental review. Submit by email to: [HUD-wa.wcr@noaa.gov](mailto:HUD-wa.wcr@noaa.gov)

This form is to be submitted to NMFS by qualified Responsible Entities Only, and only for projects that qualify for inclusion under NMFS' HUD Programmatic Biological Opinion for Projects in Washington # **WCR-2020-00512**. Estimated review time on complete submittal is ~ 30 days.

| PROJECT APPLICANT INFORMATION     |              | PROJECT INFORMATION                        |                                                          |
|-----------------------------------|--------------|--------------------------------------------|----------------------------------------------------------|
| <b>RESPONSIBLE ENTITY</b>         |              | <b>PROJECT NAME:</b>                       |                                                          |
| <b>NAME</b>                       | <b>PHONE</b> | <b>COUNTY</b>                              |                                                          |
| <b>TITLE</b>                      | <b>EMAIL</b> | <b>STREET ADDRESS *</b>                    |                                                          |
| <b>HUD FUNDED?</b>                |              | <b>CITY</b>                                | <b>ZIP</b>                                               |
| <b>ADDITIONAL RE CONTACT NAME</b> | <b>PHONE</b> | <b>NEAREST WATER BODY</b>                  |                                                          |
| <b>TITLE</b>                      | <b>EMAIL</b> | <b>WITHIN 150 FEET OF WATER BODY?</b>      | YES <input type="checkbox"/> NO <input type="checkbox"/> |
| <b>PROPONENT OR CONSULTANT</b>    |              | <b>WITHIN 100 YEAR FLOODPLAIN?</b>         | YES <input type="checkbox"/> NO <input type="checkbox"/> |
| <b>NAME</b>                       | <b>PHONE</b> | <b>5 + ACRES OF MATURE TREES AFFECTED?</b> | YES <input type="checkbox"/> NO <input type="checkbox"/> |
| <b>TITLE</b>                      | <b>EMAIL</b> | <b>ESTIMATED CONSTRUCTION START DATE</b>   |                                                          |

| NMFS SPECIES & CRITICAL HABITAT PRESENT IN THE ACTION AREA                                                                                                       |                                                                                                                                           |                                                                                                                                                                 |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>PUGET SOUND REGION</b> <input type="checkbox"/><br><br>PS CHINOOK,, STEELHEAD<br>PS BOCACCIO, YELLOWEYE<br>ROCKFISH<br><br>SOUTHERN RESIDENT KILLER<br>WHALES | <b>EASTERN WASHINGTON</b> <input type="checkbox"/><br><br>SNAKE RIVER SALMONIDS<br>UPPER COLUMBIA SALMONIDS<br><br>MID COLUMBIA STEELHEAD | <b>LOWER COLUMBIA BASIN</b> <input type="checkbox"/> -<br><br>LOWER COLUMBIA SALMONIDS<br>GREEN STURGEON<br><br>EULACHON<br><br>SOUTHERN RESIDENT KILLER WHALES |
| EFH SPECIES OCCURRING IN THE ACTION AREA                                                                                                                         |                                                                                                                                           |                                                                                                                                                                 |
| <input type="checkbox"/> PACIFIC SALMON (CHINOOK, COHO)                                                                                                          | <input type="checkbox"/> COASTAL PELAGICS                                                                                                 | <input type="checkbox"/> GROUND FISH                                                                                                                            |

\* If the parcel has no street address, please provide latitude and longitude of the project site.

## Appendices

| PROJECT DESCRIPTION                                                                                                                                                                                               |                                                                                                                                                                |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (i.e., pre-project site condition; soil drainage rates – please attach; post-project number of dwelling units; roofing materials and HVAC; associated parking or vehicle access; planting plans – please attach.) |                                                                                                                                                                |
| STORMWATER INFORMATION                                                                                                                                                                                            |                                                                                                                                                                |
| <b>Pre-Project</b> Impervious Surface (roads, driveways, parking, roofs, sidewalks, hardscape), in acres                                                                                                          | <b>Pre-Project</b> Pollution Generating Impervious Surface (PGIS), in acres                                                                                    |
| <b>New Proposed</b> Impervious Surface, in acres                                                                                                                                                                  | <b>New Proposed</b> PGIS, in acres                                                                                                                             |
| <b>Total Post-Project</b> Impervious Surface, in acres                                                                                                                                                            | <b>Total Post-Project</b> PGIS, in acres                                                                                                                       |
| STORMWATER TREATMENT                                                                                                                                                                                              |                                                                                                                                                                |
| <b>Are Low Impact Development (LID) stormwater methods incorporated into the project?</b><br>YES <input type="checkbox"/> NO <input type="checkbox"/> (If yes, please describe method)                            | <b>Methods</b> (infiltration measures e.g. pervious concrete, porous asphalt, permeable pavers; roof runoff filtration; bioswales, rain gardens, bioretention) |
| <b>All stormwater (up to the 10-year design storm*) infiltrated or treated with LID? Project should submit design showing design storm</b>                                                                        | YES <input type="checkbox"/> NO <input type="checkbox"/> (If no, please indicate percent using LID)                                                            |
| <b>Non-LID* Stormwater treatment methods used on-site?</b><br><br><i>*Projects not using LID, must submit a Stormwater Design. Consult Appendix C for more information.</i>                                       | YES <input type="checkbox"/> NO <input type="checkbox"/> (If yes, please describe methods)                                                                     |
| <b>Non-LID Stormwater treatment methods off-site?</b>                                                                                                                                                             | DISCHARGE TO MUNICIPAL SYSTEM? <input type="checkbox"/><br>OTHER OFFSITE DETENTION/DISCHARGE? <input type="checkbox"/><br>NAME OF RECEIVING WATER BODY:        |

Appendices

\*See Ecology 2019 Stormwater Manual to determine the design storm for your location.

| MAINTENANCE AND INSPECTION PLAN                                                                                                                                                                                                                                                                  |  |                                                                                                                                                                                                      |  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| <b>Have you included a stormwater maintenance plan with a description of the on-site stormwater system, inspection schedule and process, maintenance activities, name and contact information of party/parties with legal and financial responsibility, and inspection and maintenance logs?</b> |  | <b>YES <input type="checkbox"/> Page in stormwater plan where plan can be found</b><br><br><b>NO <input type="checkbox"/> NMFS cannot complete review without a maintenance and inspection plan.</b> |  |
| <b>Contact information for the party/parties that will be legally responsible for performing the inspections and maintenance or the stormwater facilities*:</b>                                                                                                                                  |  |                                                                                                                                                                                                      |  |
| <b>Name</b>                                                                                                                                                                                                                                                                                      |  | <b>Name</b>                                                                                                                                                                                          |  |
| <b>Responsibility</b>                                                                                                                                                                                                                                                                            |  | <b>Responsibility</b>                                                                                                                                                                                |  |
| <b>Phone</b>                                                                                                                                                                                                                                                                                     |  | <b>Phone</b>                                                                                                                                                                                         |  |
| <b>Email</b>                                                                                                                                                                                                                                                                                     |  | <b>Email</b>                                                                                                                                                                                         |  |
|                                                                                                                                                                                                                                                                                                  |  |                                                                                                                                                                                                      |  |
| <b>Alternate Name</b>                                                                                                                                                                                                                                                                            |  | <b>Alternate Name</b>                                                                                                                                                                                |  |

\*If no individual party is known, please identify a responsible role, such as President of Homeowners’ Association, or City or County Maintenance Department. If none, a deed restriction to ensure stormwater facilities are maintained.

| OTHER RELEVANT INFORMATION |
|----------------------------|
|                            |

## Appendices

**Action Completion Report**

Submit this form within 60 days of completing all work to NMFS at [HUD-wa.wcr@noaa.gov](mailto:HUD-wa.wcr@noaa.gov)

|                                      |                                                           |
|--------------------------------------|-----------------------------------------------------------|
| <b>DATE OF NOTIFICATION</b>          | <b>NMFS TRACKING # WCR-<br/>(NUMBER PROVIDED BY NMFS)</b> |
| <b>Project Name</b>                  |                                                           |
| <b>HUD Office/Responsible Entity</b> | /                                                         |
| <b>Responsible Entity Contact</b>    | Name:                                                     |
|                                      | Phone:                                                    |
|                                      | Email:                                                    |
| <b>Construction Completion Date</b>  |                                                           |

1. Describe the stormwater system as built or installed by the construction contractor and explain any on-site changes from the original plans. Attach additional pages if necessary.

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2. Attach photos of the constructed stormwater facility, including photos of the outfall structure, vegetation, facility location relative to other site features.
3. Attach a map showing the stormwater facility's location(s)
4. Attach as-built design drawings for the stormwater facility and site stormwater collection system. Impervious surface includes hardscape, sidewalks, driveways, parking areas, and roofing.  
(PDF versions only please. No CAD files)

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Appendices



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
**NATIONAL MARINE FISHERIES SERVICE**  
West Coast Region  
1201 NE Lloyd Boulevard, Suite 1100  
PORTLAND, OR 97232-1274

**Refer to NMFS Tracking Number**  
**WCRO-2020-00512**

May 12, 2023

Brian Sturdivant  
Regional Environmental Officer (REO)  
909 First Ave, Suite 340  
Seattle, WA 98104-1000

Re: [ERRATUM](#) - for the Endangered Species Act Section 7 Formal Programmatic Biological Opinion and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Consultation for the U.S. Department of Housing and Urban Development Housing Programs in Washington State

Dear Mr. Sturdivant:

Thank you for the conversation of May 8, 2023 in which you noted a drafting oversight in the referenced HUD Biological Opinion. The correction of this error will not alter the substance, the analysis, conclusion, or outcomes of the opinion, but will ensure that Responsible Entities who employ the programmatic will have greater clarity in the applicability of the program, and the protocols of use and compliance.

In the terms and conditions found on pages 91-93, the original text reads:

“1. The following terms and conditions implement reasonable and prudent measure 1 (minimize take from stormwater using design criteria, restated with additional details in Appendix B for those projects that can apply LID approaches on site; Appendix C for all other projects)

A) HUD shall provide the following criteria for roofing and gutters:

- i. No use of copper roofing or treated wood shingle roofing.
- ii. Galvanized metals in roofing or gutters must be painted to prevent rain from introducing zinc into the runoff. If paint begins to flake or peel, paint must be refreshed.
- iii. Composite (3-tab) roofing without moss inhibitor is preferred for Single Family and Duplexes.
- iv. Multifamily or commercial style buildings with rooftop HVAC equipment shall place such HVAC equipment under a roofed structure to prevent rain from introducing zinc into the runoff.”

The error is in subparagraph iii. That corrected text will read:

- iii. Composite (3-tab) roofing without moss inhibitor is preferred, where available, for Single Family and Multi-Family.



## Appendices

-2-

The same correction is also made to parallel text in Appendix B, Materials and Landscape Design Criteria to Satisfy Programmatic Terms and Conditions for Increased Use of LID. The original text reads:

- No use of copper roofing or treated wood shingle roofing.
- Galvanized metals in roofing or gutters must be painted to prevent rain from introducing zinc into the runoff. If paint begins to flake or peel, paint must be refreshed.
- Composite (3-tab) roofing without moss inhibitor is preferred for Single Family and Duplexes.
- Multifamily or commercial style buildings with rooftop HVAC equipment shall place such HVAC equipment under a roofed structure to prevent rain from introducing zinc into the runoff.

The error is in the third bullet. The corrected text will read:

- No use of copper roofing or treated wood shingle roofing.
- Galvanized metals in roofing or gutters must be painted to prevent rain from introducing zinc into the runoff. If paint begins to flake or peel, paint must be refreshed.
- Composite (3-tab) roofing without moss inhibitor is preferred, where available, for Single Family and Multi-Family.
- Multifamily or commercial style buildings with rooftop HVAC equipment shall place such HVAC equipment under a roofed structure to prevent rain from introducing zinc into the runoff.

This correction brings consistency to the proposed action, the effects analyses, and the terms and conditions of the Opinion. The correction readily falls within the existing analysis, and changes no outcomes or conclusions regarding effects of the proposed action presented in the consultation. Please attach this erratum sheet to the Opinion in your records.

Please contact Bonnie Shorin, Branch Chief for the Central Puget Sound Branch of the Oregon Washington Coastal Office at 360-995-2750 or [bonnie.shorin@noaa.gov](mailto:bonnie.shorin@noaa.gov) if you have any questions concerning the consultation, or this notice of errata.

Sincerely,



Kim W. Kratz, Ph.D  
Assistant Regional Administrator  
Oregon Washington Coastal Office

## Endangered Species Act: Consultation Guidance for Washington State

Prepared in collaboration with the U.S. Fish and Wildlife Service.  
For use in Washington State only.

**24 CFR Part 58, 24 CFR Part 50**

### Purpose

The purpose of this checklist is to assist HUD and HUD’s responsible entities (REs) in meeting their Endangered Species Act obligations. The checklist is designed to help you determine whether a proposed HUD assisted project has potential to affect federally listed species or designated critical habitat, and the process to follow based on those effect determinations. The guidance contained herein is specifically for U.S. Fish and Wildlife Service (FWS) trust resources.

In September 2020, National Marine Fisheries Service (NMFS) issued its Endangered Species Act Section 7 Formal Programmatic Biological Opinion and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Consultation for the U.S. Department of Housing and Urban Development Housing Programs in Washington, otherwise known as a “programmatic” biological opinion.<sup>1</sup> HUD and REs must consider both this Fish & Wildlife Consultation Guidance document AND the NMFS Washington State Programmatic when considering the effects of a HUD assisted project on listed species and/or habitat.

HUD must ensure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of a listed species in the wild or destroy or adversely modify its critical habitat. HUD staff and REs, as a part of an environmental review, must consider potential impacts of the HUD-assisted project to endangered and threatened species and critical habitats. The review must evaluate potential impacts not only to any listed species but also to any proposed endangered or threatened species and critical habitats. This responsibility is cited in environmental procedures at 24 CFR 58.5(e) and 24 CFR 50.4(e).

### ESA Section 7 Consultation Background

The ESA directs all Federal agencies to utilize their authorities to conserve species listed as threatened or endangered (ESA Section 2(c)(1)), and to consult with “the Services” - NMFS and FWS - to ensure that their actions will not jeopardize listed species, or adversely modify habitat designated as critical for listed species.

The Services share responsibility for assisting federal agencies in implementing the ESA. FWS trust resources under the ESA include birds, amphibians, plants, insects, terrestrial reptiles, terrestrial mammals, most freshwater fish, and a few marine mammals. In Washington, FWS

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<sup>1</sup> The programmatic is a separate document from this consultation guidance which you are reading. The programmatic can be found at the Region X Environmental website <https://www.hud.gov/states/shared/working/r10/environment>

trust resources include bull trout and designated bull trout critical habitat located in three recovery units (the Coastal, Mid-Columbia, and Columbia Headwaters recovery units). NMFS manages the remainder of listed marine mammals, as well as anadromous fish such as salmon and steelhead. For NMFS information and guidance on how to consider NMFS listed species and habitat, consult the Washington State Programmatic found here <https://www.hud.gov/states/shared/working/r10/environment>.

Before HUD or the RE consults with NMFS and FWS, they must make a preliminary analysis of the project activity and/or whether listed species and/or habitat are present. HUD or the RE can then make one of three determinations of effect for each relevant<sup>2</sup> listed species:

- **“No effect”** is the appropriate conclusion if the proposed action will not affect listed species/critical habitat at all. If a “no effect” determination is made, the Federal agency (or the RE) should not contact FWS and/or NMFS for concurrence.
- When effects to listed species are expected to be insignificant or discountable, or wholly beneficial, the action agency should make a **“not likely to adversely affect”** determination and contact FWS, for written concurrence with that determination. The thresholds for reaching a finding of Not Likely to Adversely Affect are important:
  - ✓ Insignificant effects relate to the size of the impact and should never reach the scale where take occurs. Take is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or attempt to engage in any such conduct. *Harm* can arise if habitat is altered in a manner that diminishes important species behavior, such as breeding, feeding, or sheltering, to the degree that it injures the species. *Harass* includes those activities that alter a species behavior in a manner that increases the likelihood of it being injured. Based on best judgment, a person would not be able to meaningfully measure, detect, or evaluate insignificant effects.
  - ✓ Discountable effects are those that are extremely unlikely to occur. Based on best judgment, a person would not expect discountable effects to occur.
- Unless all effects that are likely to occur as a direct or indirect result of the proposed action, or its interrelated or interdependent actions, are insignificant, discountable, or beneficial, then the action agency should make a determination of **“likely to adversely affect.”** The Federal agency/HUD must initiate formal consultation with FWS.

The **effects of the action** (direct and indirect) are not limited to the immediate area involved in the action (“footprint” or project area). Instead, the effects of the action more typically extend to a larger **action area**, which encompasses all of the action’s direct and indirect effects to the physical, chemical, and biological environment. Direct effects include sources of sound and visual

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<sup>2</sup> By “relevant” we mean, identified on the County-wide list as occurring or potentially occurring in the County of interest.

disturbance during construction. Indirect effects occur later in time (i.e., post-construction) and may include air emissions, storm or process water discharges, sources of sound and visual disturbance (e.g., lighting), etc. The effects of interrelated and interdependent actions must also be considered (e.g., site access and staging, sourcing of materials, disposal of wastes). Some actions may have indirect effects to the pattern or rate of land use conversion or development, and those potential effects must also be considered.

## **Procedure for a No Effect Determination**

A determination of “**no effect**” to federally listed species and critical habitat fulfills HUD’s and the RE’s obligation to ensure actions it authorizes, funds, or carries out do not jeopardize the continued existence of listed species or adversely modify designated critical habitat. “**No effect**” determinations do not require coordination with or approval from the FWS and/or NMFS.

Use the guidance below to help you determine whether the project qualifies for a “no effect” determination; if, for any species or critical habitat under FWS jurisdiction, there is the potential for a significant exposure or measurable effect, the project does not qualify. The guidance provided herein is for FWS only and may not be used to document a determination of “no effect” for species or habitats managed by NMFS.

### **Step 1: Obtain Species List & Determine Critical Habitat**

You must obtain a species list for the entire action area of your project. The action area encompasses all of the effects of the project, not just those that occur within the construction footprint. Project effects may include those that extend beyond the project site itself, such as noise, air pollution, water quality, stormwater discharge, visual disturbance. Effects to habitat must also be considered, including the project’s effects on roosting, feeding, nesting, spawning and rearing habitat, overwintering sites, and migratory corridors.

Go to <http://ecos.fws.gov/ipac/> for a list of species; the area of interest/action area can be identified using the ‘tools’. Please note that this list includes listed, proposed *and* candidate species. Consideration of project effects on candidate species is optional, unless effects are very large; however, candidate species may become listed as endangered or threatened species during the period of construction. If you have questions, contact the appropriate FWS field office to discuss the species list for your area.

### **Step 2: Determine Effect**

**Question 1: Does suitable habitat for any listed or proposed species under FWS jurisdiction, or designated critical habitat, occur in the action area; is it possible that any listed or proposed species would be exposed or affected?**

Consider all effects of the project within the action area. The action area encompasses all the effects of the project, including those that occur beyond the boundaries of the property (such as noise, air pollution, water quality, stormwater discharge, visual disturbance).

- ☒ **NO, the project action area and all effects are outside the range of listed or proposed species and designated critical habitat.** Therefore, the project will have *No Effect* on ESA-listed or proposed species and designated critical habitat. ***Please see Page 6 of the attached iPAC report. The project will conform to Table A Parameters.***

X Record your determination of *No Effect* for each relevant species and critical habitat, and maintain this documentation in your Environmental Review Record.

X Attach a statement explaining how you determined that your project's effects do not extend to, and therefore will have no effect on, listed or proposed species or designated critical habitat.

- ☐ **YES, the project action area does include habitats that may support ESA-listed or proposed species, or designated critical habitat, under FWS jurisdiction.**

☐ Continue to Question 2.

**Question 2: Is the project activity listed in Table A and does it meet all of the required parameters?**

- ☒ **YES, the activity is listed in Table A and meets all of the required parameters.** Therefore, you can determine the project will have *No Effect* on ESA-listed or proposed species and/or designated critical habitat.

X Record your determination of *No Effect* and maintain this documentation, including the official species list and map of your project location, in your Environmental Review Record.

X Attach a statement to your determination explaining how your project met the required parameters in Table A.

- ☐ **NO, the project description does not match a project description in Table A and all of the specified parameters.**

☐ Continue to Question 3.

**Question 3: Do you have some other basis for a *No Effect* determination, for example a biological assessment or other documentation from a qualified professional that you concur with?**

- ☐ **YES, the project has professional documentation for *No Effect* determination.**

☐ Record your determination of *No Effect* and maintain this documentation, including the official species list and map of your project location, in your Environmental Review Record.

☐ Attach the biological assessment or other professional documentation.

☐ **NO, the project does not have professional documentation for a *No Effect* determination and *may affect* a listed species.**

- ☐ The project *may affect* listed or proposed species, or designated or proposed critical habitat. Consultation with the FWS may be required. CONTACT THE FWS TO DETERMINE THE APPROPRIATE EFFECTS DETERMINATION AND LEVEL OF CONSULTATION REQUIRED. Contact information is provided below.

**Table A.**

| Potential “No Effect” Activity                                                                                                                                                                                                                                                                                                                                                                                               | Required Parameters and/or Conditions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Interior rehabilitation</b>                                                                                                                                                                                                                                                                                                                                                                                               | <ul style="list-style-type: none"> <li>For existing structures only.</li> <li>Access and staging, source sites, and disposal sites have been assessed as part of the proposed action.</li> <li>Waste materials are recycled or otherwise disposed of in a properly permitted sanitary or hazardous waste disposal site.</li> </ul>                                                                                                                                                                                                                                                                                                                         |
| <b>Landscape repair<sup>*1*</sup></b> , including adding sprinkler systems<br><br><sup>*1*</sup> Species under FWS jurisdiction include some that occur in the previously disturbed and built environment; HUD and its responsible entities must evaluate potential effects to all of the FWS species that occur, or potentially occur, in the action area; contact the nearest FWS Field Office with any related questions. | <ul style="list-style-type: none"> <li>Access and staging, source sites, and disposal sites have been assessed as part of the proposed action.</li> <li>Waste materials are recycled or otherwise disposed of in a properly permitted sanitary or hazardous waste disposal site.</li> <li>The project or activity involves a previously disturbed, developed or partially developed, site or property/properties.</li> <li>Does not remove streamside/riparian vegetation or trees.</li> <li>Does not increase the amount of impervious/hard surface; or, will fully infiltrate any resulting runoff.</li> <li>Does not result in wetland fill.</li> </ul> |
| <b>Exterior rehabilitation</b> , including: <ul style="list-style-type: none"> <li>Replacing exterior paint or siding,</li> <li>Replace/repair roof<sup>*1*</sup>,</li> </ul>                                                                                                                                                                                                                                                | <ul style="list-style-type: none"> <li>For existing structures only.</li> <li>Access and staging, source sites, and disposal sites have been assessed as part of the proposed action.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>▪ Reconstruct/repair existing curbs, sidewalks, or other concrete structures<sup>*2*</sup>,</li> <li>▪ Repair existing parking lots (pot holes, repainting lines, etc.)<sup>*2*</sup>.</li> </ul> <p><sup>*1*</sup> Does not include galvanized material unless it has been sealed or otherwise contained so that it will not leach into storm water.</p> <p><sup>*2*</sup> Species under FWS jurisdiction include some that occur in the previously disturbed and built environment; HUD and its responsible entities must evaluate potential effects to all of the FWS species that occur, or potentially occur, in the action area; contact the nearest FWS Field Office with any related questions.</p> <p><sup>*3*</sup> Points of discharge must be a minimum of ¼ mile from waterbodies that support ESA-listed species or proposed/designated critical habitat.</p> | <ul style="list-style-type: none"> <li>▪ 3) Waste materials are recycled or otherwise disposed of in a properly permitted sanitary or hazardous waste disposal site.</li> <li>▪ 5) Does not remove streamside/riparian vegetation or trees.</li> <li>▪ 6) Does not increase the amount of impervious/hard surface; or, will fully infiltrate any resulting runoff.</li> <li>▪ 7) Does not result in wetland fill.</li> <li>▪ 8) Does not/will not discharge new or additional sources of storm or waste water to wetlands or waterbodies that support ESA-listed species<sup>*3*</sup>.</li> <li>▪ 9) If located within a Special Flood Hazard Area, does not reduce the amount of flood storage capacity or remove native riparian vegetation.</li> </ul> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**Table A Continued:**

| Potential “No Effect” Activity                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Required Parameters and/or Conditions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>New construction</b> <sup>*1,2*</sup></p> <p><sup>*1*</sup> Does not include galvanized material unless it has been sealed or otherwise contained so that it will not leach into storm water.</p> <p><sup>*2*</sup> Species under FWS jurisdiction include some that occur in the previously disturbed and built environment; HUD and its responsible entities must evaluate potential effects to all of the FWS species that occur, or potentially occur, in the action area; contact the nearest FWS Field Office with any related questions.</p> <p><sup>*3*</sup> Points of discharge must be a minimum of ¼ mile from waterbodies that support ESA-listed species or proposed/designated critical habitat.</p> | <ul style="list-style-type: none"> <li>▪ Access and staging, source sites, and disposal sites have been assessed as part of the proposed action.</li> <li>▪ Waste materials are recycled or otherwise disposed of in a properly permitted sanitary or hazardous waste disposal site.</li> <li>▪ The project or activity involves a previously disturbed, developed or partially developed, site or property/properties.</li> <li>▪ Does not remove streamside/riparian vegetation or trees.</li> <li>▪ Does not result in wetland fill.</li> <li>▪ Does not/will not discharge new or additional sources of storm or waste water to wetlands or waterbodies that support ESA-listed species <sup>*3*</sup>.</li> <li>▪ If located within a Special Flood Hazard Area, does not reduce the amount of flood storage capacity or remove native riparian vegetation.</li> <li>▪ Complies with all state and local building codes, including storm water regulations.</li> <li>▪ Project design will fully infiltrate any resulting runoff; or, runoff is treated, detained (as necessary according to state and local requirements), and discharged to wetlands and/or waterbodies that do NOT support ESA-listed species <sup>*3*</sup>.</li> </ul> |

## Initiating Section 7 Consultation

HUD and or a RE should NOT contact FWS if a No Effect Determination has been reached.

If all of the direct and indirect effects of the action are insignificant, discountable, or entirely beneficial, it is *not likely to adversely affect* listed species, and the section 7 consultation for the project will remain informal and relatively simple. Concurrence from FWS on a May Affect, Not Likely to Adversely Affect determination is the most common outcome of consultation for HUD-funded projects.

If the effects of the action on listed species and/or critical habitat are not discountable, insignificant, or beneficial, (i.e., likely to adversely affect), formal consultation must be initiated. In such cases, a formal consultation must be completed prior to committing resources to the project, by which the FWS assesses the action's potential to jeopardize the listed species, result in the destruction or adverse modification of critical habitat, or cause an incidental take of a listed species.

At any stage in making your determination, you may wish to contact the appropriate HUD Environmental Staff or FWS field offices for technical assistance. Contact information is available at:

For Technical Assistance contact the environmental staff at HUD:

Brian Sturdivant  
Regional Environmental Officer  
Region X  
[Brian.Sturdivant@hud.gov](mailto:Brian.Sturdivant@hud.gov)

Technical Assistance from FWS:

Ryan McReynolds  
U.S. Fish and Wildlife Service, Lacey WA  
Consultation & Conservation Planning Division  
[ryan\\_mcreynolds@fws.gov](mailto:ryan_mcreynolds@fws.gov)  
360.753.6047

### **U.S. Fish and Wildlife Service**

To initiate informal or formal consultation:

HUD's requests for consultation should be addressed to:

WA State Supervisor (Brad Thompson)

ATTN: Federal Activities Branch,

and submitted electronically to email address: [WashingtonFWO@fws.gov](mailto:WashingtonFWO@fws.gov)

# Historic Preservation for Washington State

## 24 CFR Part 58

| General requirements                                                                                                                                                | Legislation                                                       | Regulation                             |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------|----------------------------------------|
| Protect sites, buildings, and objects with national, state or local historic, cultural and/or archeological significance. Identify effects of project on properties | National Historic Preservation Act, 16 U.S.C. 470(f), section 106 | 36 CFR Part 800<br>24 CFR Part 58.5(a) |

**1. Does the project include repair, rehabilitation or conversion of existing properties; new construction; the acquisition of undeveloped land; or any activity that requires ground disturbance (defined as one cubic foot of disturbed soil)?**

- ☐ No: STOP here. The Section 106 Historic Preservation review is complete.  
Record your determination on the Statutory Worksheet or Environmental Assessment.
- ☐ Yes: PROCEED to #2

**2. Does the project involve a structure that is less than 45 years old; is not in a historic district; or has no ground disturbing activities?**

- ☐ Yes: STOP here. The Section 106 Historic Preservation review is complete.  
Record your determination that there is no potential to cause effect, including the age of the existing building and information from the National Register to show that the activity is not in a historic district, on the Statutory Worksheet or Environmental Assessment.
- ☐ No: PROCEED to #3

**3. Consult with SHPO or THPO and any tribes or groups that may have an interest in the project to determine if the project is eligible for the National Historic Register.**

- You must define and consider the Area of Potential Effect (APE). The APE is the geographic area within which an undertaking may directly or indirectly cause changes in the character or use of historic properties. The APE is influenced by the scale and nature of an undertaking. (36 CFR Part 800.16).
- Determine if there are tribes or groups that have an interest in the historic aspects of the project and invite them to participate in the consultation. For ground disturbing activities, you must make a reasonable and good faith effort to identify Indian tribes that may have an interest. HUD's website lists interested tribes by county: <https://egis.hud.gov/tadat/> We suggest you go to the Tribal website or visit the [State Historic Preservation Office's \(SHPO\) Tribal directory](#) to make sure contact information is current.
- Consult the SHPO, or if the project is on certain tribal lands, the Tribal Historic Preservation Officer (THPO), with details of the project and project site and your determination if it is eligible for the National Historic Register. SHPO or THPO has 30 days from receipt of a well-documented request of review of your determination. We recommend sending the letter by USMail with return receipt or email with read receipt to document the Tribal contact. If they do not respond within the timeframe, or provide a description of additional information needed, you may proceed with the next step of the process based on your finding or consult with the Advisory Council on Historic Preservation (ACHP).

State Historic Preservation Office: [www.dahp.wa.gov](http://www.dahp.wa.gov) email: <mailto:106@dahp.wa.gov>  
WA Tribal Historic Preservation Officer lookup: [https://grantsdev.cr.nps.gov/THPO\\_Review/index.cfm](https://grantsdev.cr.nps.gov/THPO_Review/index.cfm)

Proceed as appropriate based on the Finding:

- ☐ **No Historic Properties Affected:** STOP here. The Section 106 Historic Preservation review is complete. Attach SHPO/THPO concurrence, copies of letters to and from other interested parties and the tribes, and your response to the ERR. If SHPO/THPO did not respond within 30 days, your dated letter documents compliance. Record your determination of no historic properties affected on the Statutory Worksheet or Environmental Assessment.

- ☐ **No Adverse Effect on Historic Property:** STOP here. The Section 106 Historic Preservation review is complete. **Categorically Excluded projects (24 CFR Part 58.35(a)) CANNOT convert to exempt with this determination.**

Attach SHPO/THPO concurrence, copies of letters to and from other interested parties and the tribes, and your response to the ERR. Record your determination of no adverse affect on historic properties on the Statutory Worksheet or Environmental Assessment.

- ☐ **Adverse Effect on Historic Property** Resolve Adverse Effects per 800.6 in consultation with SHPO/THPO, the ACHP if participating, and any consulting parties. The loan or grant may not be approved until adverse effects are resolved according to 800.6 or you have complied with 36 CFR Part 800. **Categorically Excluded projects (24 CFR Part 58.35(a)) CANNOT convert to exempt with this determination.**

Make sure that the resolution is fully documented in your ERR with all SHPO/THPO correspondence, copies of letters to and from other interested parties and the tribes, surveys, MOAs etc.

# Historic Preservation for Washington State

## 24 CFR Part 58

| General requirements                                                                                                                                                 | Legislation                                                       | Regulation                             |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------|----------------------------------------|
| Protect sites, buildings, and objects with national, state or local historic, cultural and/or archeological significance. Identify effects of project on properties. | National Historic Preservation Act, 16 U.S.C. 470(f), section 106 | 36 CFR Part 800<br>24 CFR Part 58.5(a) |

Per 36 CFR 800.4 and 36 CFR 800.5, the lead federal agency must consult with the Washington State Historic Preservation Officer (SHPO) and Department of Archaeology and Historic Preservation (DAHP) for each step of the Section 106 process. The U.S. Department of Housing and Urban Development has legally delegated their authority to you, and therefore, you must consult with DAHP. Consultation with DAHP consists of letterhead-to-letterhead exchange of each step, which are as follows:

- ☐ Step 1: Initiate consultation by defining the undertaking. Please provide documentation of your legal delegation from HUD to consult with SHPO and DAHP at this time.
- ☐ Step 2: Definition of the Area of Potential Effects (APE)
- ☐ Step 3: Survey and Methodology
- ☐ Step 4: Determination of Eligibility
- ☐ Step 5: Assessment of Adverse Effects
- ☐ Step 6: Resolution of Adverse Effects

Steps may be consolidated into fewer consultations, but SHPO and DAHP must be afforded an opportunity to consult on each step. DAHP has consolidated Section 106 consultation into two forms.\*

1. [EZ-1](#) - Section 106 EZ Project Review Form: a fillable PDF. Download, complete, and send to [106@dahp.wa.gov](mailto:106@dahp.wa.gov). May be used to initiate consultation and describe the Undertaking (Step 1), and to define the APE (Step 2).
2. [EZ-2](#) - for built environment resources (buildings, structures, sites, objects, districts). Entered directly into WISAARD <https://dahp.wa.gov/project-review/wisaard-system>. May be used to offer a determination of eligibility (Step 4). Depending on the scope of the undertaking, or if cultural resource professionals are already being retained for the undertaking, Historic Property Inventory forms may be requested, in order to ensure the level of identification efforts is commensurate with the undertaking.

Please visit their website for more information:

- Section 106: <https://dahp.wa.gov/project-review/section-106> .
- EZ forms: <https://dahp.wa.gov/ez-project-review-form>

Tribal consultation is a separate responsibility from consultation with DAHP. You must determine if there are tribes or groups that have an interest in the historic aspects of the project and invite them to participate in the consultation. HUD's website lists interested tribes by county: <https://egis.hud.gov/tdat/>. It is suggested that you go to the Tribal website, or you may review DAHP resources, to inquire about up to date contact information, but DAHP cannot consult with Tribes on your behalf.