Statutory Checklist Instructions

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NOTE: These instructions are a brief description of essential findings needed to establish compliance and ARE NOT INTENDED TO REPLACE THE APPLICABLE REGULATIONS. Applicable regulations take precedence over these brief instructions. The preparer of the “Statutory List” must always document reliable information/sources used in making these environmental determinations.

HISTORIC PROPERTIES

HUD programs support and facilitate the use of historic properties for affordable housing, economic development, and community revitalization. HUD encourages the rehabilitation of historic buildings and the preservation of irreplaceable resources like archeological sites that convey centuries of human cultural activity. The National Historic Preservation Act (NHPA), 16 U.S.C. 470 et seq., directs each Federal agency, and those Tribal, State, and Local governments that assume Federal agency responsibilities, to protect historic properties and to avoid, minimize, or mitigate possible harm that may result from agency actions.

What do I do?

1. Determine if you need to consult with Tribes for this project. See When to Consult with Tribes in Appendix 1 to make this determination. If consultation is required, use the sample Letter to Tribes to complete the consultation process.

2. Determine the Area of Potential Effect (APE): The APE is the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The area of potential effect is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking (36 CFR 800.16(d)).

3. Identify and Evaluate Historic Properties within the APE: 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. To determine eligibility, use HP Fact Sheet #4 found in Appendix 2.

4. Assess Effects on Historic Properties: Only properties that are listed on or eligible for the National Register of Historic Places receive further consideration. If no such properties are identified, proceed to Step 5a. If such properties are identified, 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.

5. Make a Determination: There are three possible determinations applicable to Historic Preservation:
a. No Historic Properties Affected: Use the sample letter to SHPO to ask for the State Historic Preservation Officer’s concurrence with this determination. Click here for instructions on what should be included with this letter. Your ERR should include the following documentation:

- A copy of your letter to the SHPO stating your finding of “No Historic Properties Affected” and the SHPO’s response letter stating concurrence with your determination. If you do not receive a response from the SHPO within 30 days of receipt of the request, note this in the record.
- Photographs, maps, and drawings (as necessary) of the APE and project site.
- Description of steps taken to identify historic properties.
- Description of the basis for determining that no historic properties are present or affected.
- Evidence of tribal consultation if required.
- Copies or summaries of any views provided by consulting parties.

b. No Adverse Effect: Use the sample letter to SHPO to ask for the State Historic Preservation Officer’s concurrence with this determination. Click here for instructions on what should be included with this letter. Your ERR should include the following documentation:

- A copy of your letter to the SHPO stating your finding of “No Adverse Effect” and the SHPO’s response letter stating concurrence with your determination. If you do not receive a response from the SHPO within 30 days of receipt of the request, note this in the record.
- Photographs, maps, and drawings (as necessary) of the APE and project site.
- Description of steps taken to identify historic properties.
- Description of the basis for determining that no historic properties are adversely affected.
- Evidence of tribal consultation if required.
- Copies or summaries of any views provided by consulting parties.

c. Adverse Effect: If you determine that the project will have adverse effects on historic properties, contact MAG staff to facilitate consultation with the State Historic Preservation Officer.

6. Note your determination on the statutory checklist found in your ERR Guide and attach supporting documents.

FLOODPLAINS MANAGEMENT

Executive Order 11988 - Floodplain Management requires Federal activities to avoid impacts to floodplains and to avoid direct and indirect support of floodplain development to the extent practicable. 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).
What do I do?
1. Determine if any of the exceptions at CFR 55.12(c) apply: If an exception applies, proceed to Step 4a.
2. If no exception applies, determine if your project is located in a floodplain using FEMA’s Flood Map Service Center. If the project is not located in a floodplain, proceed to Step 4b. A floodplain is Zone A, B or Shaded Zone X.
3. If located in a floodplain, contact MAG staff to begin the 8-Step Decision Making Process. If the project occurs in a 100-year floodplain (A Zone), an 8-Step Process is required unless it is inapplicable per 55.12(b) or if the 5-Step Process is applicable per 55.12(a). If the project occurs in a 500-year floodplain (B Zone or shaded X Zone), the 8-Step Process is required for critical actions unless it is inapplicable per 55.12(b) or if the 5-Step Process is applicable per 55.12(a). If the project occurs in a floodway, federal assistance may not be used at this location unless the project is a functionally dependent use or a 55.12(c) exception applies. Proceed to Step 4c.
4. Make a Determination: There are three possible determinations applicable to floodplain management:
   a. Exception at 55.12(c) applies. Your ERR should include:
      - Documentation supporting the determination that an exception at 55.12(c) applies.
   b. The project is not located in a floodplain. Your ERR should include:
      - A FEMA map showing the project is not located in a Special Flood Hazard Area.
   c. The project is located in a floodplain. Your ERR should include:
      - A FEMA map showing the project is located in a Special Flood Hazard Area.
      - Documentation of the 8-Step Process. Include proof of early and final public notices.
5. Note your determination on the statutory checklist found in your ERR Guide and attach supporting documents.

WETLANDS PROTECTION
Executive Order 11990: Protection of Wetlands requires Federal activities to avoid adverse impacts to wetlands where practicable. As primary screening, HUD or grantees must verify whether the project is located within wetlands identified on the National Wetlands Inventory (NWI) or else consult directly with the Department of Interior- Fish and Wildlife Service (FWS) staff. If FWS staff is unavailable, HUD or grantees are to consult with the USDA/NRCS National Soils Survey or the U.S. Army Corp of Engineers (ACE).

What do I do?
1. Determine if your project involves new construction as defined in Executive Order 11990, expansion of a building’s footprint, or ground disturbance? This includes draining, dredging, channelizing, filling, diking, impounding, and related activities and any structures or facilities begun or authorized after the effective date of the Order. If this does not apply, proceed to Step 5a.
2. If your project involves new construction, determine if any of the exceptions found at 24 CFR 55.12(a)(3), 55.12(a)(4), 55.12(c)(3), 55.12(c)(7), or 55.12(c)(10) apply, in which case the 8-Step Process is not required. If an exception in section 55.12(a) applies, you must complete the 5-Step Process. Contact MAG staff to begin this process. If an exception in 55.12(b) or (c) applies the 5- or 8-Step Process is not required. Proceed to Step 5b.

3. If your project involves new construction, expansion of a building’s footprint, or ground disturbance, determine if the project is located within wetlands or will impact or be impacted by nearby wetlands. Use the Wetlands Inventory Data Mapper to make this determination. If the Wetlands Map does not show any wetlands located within or near the project site, perform a site visit to confirm the finding. Proceed to Step 5c.

4. If your project will impact an on- or off-site wetland, contact MAG staff to begin the 8-Step Decision Making Process. Proceed to Step 5d.

5. Make a Determination: There are four possible determinations applicable to wetlands protection:
   a. The project does not involve new construction (as defined in Executive Order 11990), expansion of a building’s footprint, or ground disturbance. Your ERR should include:
      □ Documentation supporting that no project activities involve new construction, expansion of a building’s footprint, or ground disturbance.
   b. Exception at 55.12(a)(3), 55.12(a)(4), 55.12(c)(3), 55.12(c)(7), or 55.12(c)(10) applies. If an exception at 55.12(a) applies, provide documentation supporting this determination and documentation showing the 5-Step Process.
      □ If an exception at 55.12(b) or (c) applies, provide documentation supporting this determination.
   c. The project does not impact an on- or off-site wetland. Your ERR should include:
      □ A map supporting the determination that the project does not impact on- or off-site wetlands (Use the Wetlands Inventory Data Mapper)
      □ Notes from your field visit confirming this finding (may include photographs).
   d. The project impacts an on- or off-site wetland. Your ERR should include:
      □ A map supporting the determination that the project impacts on- or off-site wetlands.
      □ Documentation of the 8-Step Process. Include proof of early and final public notices.

6. Note your determination on the statutory checklist found in your ERR Guide and attach supporting documents.

FLOOD INSURANCE

The Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) requires that projects receiving federal assistance and located in an area identified by the Federal Emergency Management Agency (FEMA) as being within a Special Flood Hazard Areas (SFHA) be covered by flood insurance under the National Flood Insurance Program (NFIP). In order to be able to purchase flood insurance, the community must be participating in the NFIP. If the community is not participating in the NFIP, federal assistance cannot be used in those areas.
What do I do?
1. Determine if the project involves financial assistance for construction, rehabilitation, or acquisition of a mobile home, building, or insurable personal property or the purchase of machinery, equipment, fixtures, or furnishings that are insurable under NFIP. If the project does not involve any of these, proceed to Step 4a.
2. If your project includes any of the activities listed in Step 1, determine if the structure, part of the structure, or insurable property is located in a FEMA-designated Special Flood Hazard Area. Use the Flood Map Service Center. If not in a Special Flood Hazard Area, proceed to Step 4b.
3. If your project is located in a Special Flood Hazard Area, the community must participate in the National Flood Insurance Program. Proceed to Step 4c.
4. Make a determination: There are three possible determinations applicable to Flood Insurance:
   a. Not applicable. The project does not involve financial assistance for construction, rehabilitation, or acquisition of a mobile home, building, or insurable personal property or the purchase of machinery, equipment, fixtures, or furnishings that are insurable under NFIP. Your ERR should include:
      - Documentation supporting your determination.
   b. Not applicable. The project is not located in a Special Flood Hazard Area. Your ERR should include:
      - A FEMA map showing the project is not located in a Special Flood Hazard Area.
   c. Flood Insurance is required. Your ERR should include:
      - A FEMA map showing the project is located in a Special Flood Hazard Area.
      - 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 in the review.
5. Note your determination on the statutory checklist found in your ERR Guide and attach supporting documents.

COASTAL ZONE MANAGEMENT – Not Applicable in Region VIII – Utah. This is already noted in your ERR Guide. You do not need to include any documentation in your ERR.

SOLE SOURCE AQUIFERS – Not Applicable. There are no Sole Source Aquifers in Utah County. This is already noted in your ERR guide. You do not need to include any documentation in your ERR.

ENDANGERED SPECIES
The 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 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).
What do I do?

1. **Determine if the project involves any activities that have the potential to affect species or habitats:** A No Effect determination can be made if none of the activities involved in the project have potential to affect species or habitats. Examples of actions without potential to affect listed species may include: rental assistance, purchasing existing buildings, completing interior renovations to existing buildings, and replacing exterior paint or siding on existing buildings. If you are able to determine based on the types of activities involved in your project that it will have No Effect on listed species or designated critical habitats, the project is in compliance with the ESA. Describe your analysis and conclusions in the environmental review record and include a copy of the [USFWS letter](#). Proceed to Step 4a.

2. If you cannot make a determination based on the project activity, visit the [FWS Information for Planning and Consultation Tool](#) to determine if there are any listed species or critical habitats in your project area. If there are no listed species or critical habitats in your area, complete a site visit to confirm that the project is an already developed area and has no previously undisturbed land or riparian habitat. If this is the case, you may make a determination of No Effect and proceed to Step 4a.

3. **If you are unable to determine if your project has the potential to affect species or habitat, or you have determined that the project has the potential to affect species or habitat,** contact MAG staff to facilitate consultation with US Fish and Wildlife field office staff.

4. **Make a determination:** There are three possible determinations applicable to Endangered Species:
   a. **No Effect.** Your ERR should include:
      - Documentation supporting your determination, including any maps, photos, or site visit notes.
      - [USFWS letter](#).
   b. **May Affect, Unlikely to Adversely Affect.** Your ERR should include:
      - Documentation supporting your determination, including any maps, photos, or site visit notes.
      - Copies of all correspondence with the Fish and Wildlife Service.
   c. **Likely to Adversely Affect.** Your ERR should include:
      - Documentation supporting your determination, including any maps, photos, or site visit notes.
      - Copies of all correspondence with the Fish and Wildlife Service, including the biological evaluation or assessment and biological opinion(s).
      - Description of all mitigation measures to be taken to ensure that the project is not likely to jeopardize listed species or destroy or adversely modify critical habitat.

5. **Note your determination on the statutory checklist found in your ERR Guide and attach supporting documents.**
WILD AND SCENIC RIVERS

There is only one mile of river protected under this act in Utah County, so it is highly unlikely that your project will affect it. If your project is within one mile of American Fork Creek from the Timpanogos Cave National Monument boundary to the mouth of American Fork Canyon, contact MAG staff for assistance. Otherwise, the no affect determination is already noted in your ERR guide. You do not need to include any documentation in your ERR.

AIR QUALITY

The Clean Air Act was implemented to remedy the damaging effects that bad air quality can have on human health and the environment. Although it is a federal act applied nationally, much of the work and planning is done at the state and local level to tailor air quality requirements to local needs. The Act was most recently revised in 1990, when major changes were enacted.

In order to show compliance with the NAAQS, projects funded by HUD must demonstrate that they conform to the appropriate SIP.

What do I do?

1. Determine if your project includes new construction or conversion of land use facilitating the development of public, commercial or industrial facilities OR five or more dwelling units. Federal projects must conform to Clean Air Act requirements if they may constitute a significant new source of air pollution. If your project does not involve new construction or conversion of land use as indicated above, it can be assumed that its emissions are below de minimis levels and the project is in compliance with the Act. If your project does not include any of these activities, proceed to Step 4a.

2. If your project includes any of the activities listed in step one, determine if your project requires consultation or permitting with the Utah Division of Air Quality by referring to the Air Quality Permit letter. Projects that do not require a permit are considered to not have an impact on the State Implementation Plan. Proceed to Step 4b.

3. If your project requires an Air Quality Permit according to the letter contact MAG staff to facilitate consultation with the Division of Air Quality.

4. Make a determination: There are three possible determinations applicable to Air Quality:
   a. The project does not involve new construction or conversion of land use as indicated above. You do not need any supporting documentation other than the project description already included in your ERR.
   b. Your project does not require an Air Quality Permit and is considered to not impact the State Implementation Plan. Your ERR should include:
      □ A copy of the Air Quality Permit letter with your project type highlighted.
   c. The project can be brought into compliance with the State Implementation Plan through modification or mitigation. Your ERR should include:
      □ Documentation on how the project can be brought into compliance.
      □ Record of consultation with the Division of Air Quality.

5. Note your determination on the statutory checklist found in your ERR Guide and attach supporting documents.
FARMLANDS PROTECTION

The importance of farmlands to the national and local economy requires the consideration of the impact of activities on land adjacent to prime or unique farmlands. The purpose of the Farmland Protection Policy Act (7 U.S.C. 4201 et seq, implementing regulations 7 CFR Part 658, of the Agriculture and Food Act of 1981, as amended) is to minimize the effect of Federal programs on the unnecessary and irreversible conversion of farmland to nonagricultural uses.

The Act does not apply to projects already in or committed to urban development or those that could otherwise not convert farmland to non-agricultural uses. However, land that meets the definition of prime or unique farmlands or is determined to be of statewide or local significance (with concurrence by the U.S. Secretary of Agriculture) is subject to the Act. In some states agricultural lands are protected from development by agricultural districting, zoning provisions, or special tax districts.

What do I do?

1. **Determine if your project includes any activities that could potentially convert one land use to another.** Activities include new construction, acquisition of undeveloped land, or conversion. If your project does not include any such activities, proceed to Step 4a.

2. **If your project includes activities that could potentially convert land use, determine if it meets any of the following exemptions:**
   a. Construction limited to on-farm structures needed for farm operations
   b. Construction limited to new minor secondary (accessory) structures such as a garage or storage shed
   c. Project on land used for water storage
   d. Project on land already in or committed to urban development. NOTE: Farmland subject to FPPA requirements does not have to be currently used for cropland. USDA/NRCS regulations contained at 7 CFR Part 658.2 define “committed to urban development” as land with a density of 30 structures per 40-acre area; lands identified as “urbanized area” (UA) on the Census Bureau Map or as urban area mapped with a “tint overprint” on USGS topographical maps; or as “urban-built-up” on the USDA Important Farmland Maps. Land zoned for development, i.e. non-agricultural use, does NOT exempt a project from compliance with the FPPA.

3. **If your project includes activities that could potentially convert land use and does not meet one of the exemptions above, determine if “Important Farmland,” including prime farmland, unique farmland, or farmland of statewide or local importance regulated under the FPPA occur on the project site.** Visit the USDA Natural Resources Conservation Service’s (NRCS) Web Soil Survey to make the determination or check with your city or county’s planning department to ask them to document if the project is on land regulated by the FPPA (note that zoning important farmland as non-agricultural does not exempt it from FPPA requirements).

4. **Make a determination:** There are four possible determinations applicable to Farmlands Protection:
a. The project does not include any activities, including new construction, acquisition of undeveloped land, or conversion, that could potentially convert one land use to another. Your ERR should include:
   □ Documentation supporting your determination.
b. Your project meets criteria for an exemption. Your ERR should include:
   □ Applicable maps or documentation supporting your determination.
c. The project site does not include “Important Farmland.” Your ERR should include:
   □ Map (USDA soil survey) or other documentation supporting your determination, such as correspondence with your City or County planning office and relevant maps or documents.
d. The project does not meet the criteria for an exemption and may affect “Important Farmland”. Contact MAG staff to consider alternatives to completing the project on important farmland and means of avoiding impacts to Important Farmland.

5. Note your determination on the statutory checklist found in your ERR Guide and attach supporting documents.

ENVIRONMENTAL JUSTICE

Environmental justice means ensuring that the environment and human health are protected fairly for all people regardless of race, color, national origin, or income. Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations" (2/94) requires certain federal agencies, including HUD, to consider how federally assisted projects may have disproportionately high and adverse human health or environmental effects on minority and low-income populations.

What do I do?
1. Determine if your project creates adverse environmental impacts. If no adverse environmental impacts are anticipated, proceed to Step 4a.
2. If you anticipate adverse environmental impacts you must attempt to eliminate the impact, select another alternative, minimize the impact, document findings.
3. If an adverse impact remains, determine if low-income and/or minority populations will be disproportionately affected. Use the EPA’s EJSCREEN to access demographic and income data for your project area. Proceed to Step 4b if low-income and/or minority populations will not be disproportionately affected.
4. Mitigate adverse impacts: Engage the affected community in meaningful participation about mitigating the impacts or move the project to another community, then proceed to Step 4c.
5. Make a Determination: There are three possible determinations applicable to Environmental Justice:
   a. No adverse environmental impacts. Your ERR should include:
      □ Evidence that the proposed action will not create an adverse environmental impact or aggravate an existing impact at the project site and surrounding neighborhood.
   b. Adverse environmental impacts will not disproportionately affect low-income or minority populations. Your ERR should include:
Evidence that the project is not in an environmental justice community of concern (using the EPA’s EJSCREEN) or evidence that the project does not disproportionately affect a low-income or minority population. Describe how the proposed action will not have a disproportionate adverse impact on minority or low-income populations.

c. Adverse environmental impacts on low-income and/or minority populations. Your ERR should include:

Documentation that the affected community residents have been meaningfully informed and involved in a participatory planning process to address (remove, minimize, or mitigate) the adverse effect from the project and the resulting changes.

6. Note your determination on the statutory checklist found in your ERR Guide and attach supporting documents.

**NOISE ABATEMENT & CONTROL**

HUD’s noise standards may be found in 24 CFR Part 51, Subpart B. For proposed new construction in high noise areas, the project must incorporate noise attenuation features. Consideration of noise applies to the acquisition of undeveloped land and existing development as well.

In "Unacceptable" noise zones, HUD strongly encourages conversion of noise-exposed sites to land uses compatible with the high noise levels.

**What do I do?**

1. **Determine if your project is noise sensitive per 24 CFR Part 51, Subpart B.** This includes assistance, subsidy or insurance for housing, manufactured home parks, nursing homes, hospitals, day care facilities, quiet outdoor space that is ancillary to the principal use and all programs providing assistance or insurance for land development, redevelopment or any other provision of facilities and services which are directed to making land available for housing or noise sensitive development. If your project does not involve any noise sensitive uses, proceed to Step 4a.

2. **If your project involves a noise sensitive use, determine if any of the following occur:**
   a. Major roadways (4 lanes) within 1,000 feet of the site
   b. Railroad tracks within 3,000 feet of the site
   c. Commercial airports and military airports within 15 miles of the site
   d. Near an industrial facility or military installation with loud impulsive sounds

   If none of these conditions occur at your project site, proceed to Step 4b.

3. **If any of the above conditions exist you must complete a noise assessment to determine if the noise level in the area exceeds HUD’s limit of 65 dB for noise sensitive projects.** Use HUD’s online Noise Assessment Tool to make this determination. If the noise level is between 66 and 75 dB, you must select another site, consider exterior mitigation, or consider interior mitigation that will bring the interior noise level to 45 dB and/or exterior noise level to 65 dB.

4. **Make a Determination:** There are five possible determinations applicable to Noise Abatement and Control:
   a. The project does not include any noise sensitive uses. Your ERR should include:
Documentation that the project does not include noise sensitive uses found in 24 CFR Part 51, Subpart B.

b. The noise sensitive project is not within 1,000 feet of a major roadway, 3,000 feet of a railroad, 15 miles of a military or FAA-regulated civil airfield, or near an industrial facility or military installation with loud impulsive sounds. Your ERR should include:
   - Maps documenting the distance between your project and major roadways, railroads, and airports.

c. The noise sensitive project is within those distances with an Acceptable noise level (not exceeding 65 dB). Your ERR should include:
   - Maps documenting the distance between your project and major roadways, railroads, and airports.
   - Documentation of the noise calculation performed.

d. The noise sensitive project is within those distances and includes an effective noise barrier (i.e. that provides sufficient protection). Your ERR should include:
   - Maps documenting the distance between your project and major roadways, railroads, and airports.
   - Documentation of the noise calculation performed.
   - Documentation supporting your determination that an effective noise barrier exists.

e. The noise sensitive project is in an area with a Normally Unacceptable (66-75 dB) noise level. Noise attenuation requirements have been identified and will bring the interior noise level to 45 dB and/or exterior noise level to 65 dB. Your ERR should include:
   - Documentation of the noise calculation performed.
   - Documentation of noise attenuation requirements identified to bring the interior noise level to 45 dB and/or exterior noise level to 65 dB.

5. **Note your determination on the statutory checklist found in your ERR Guide and attach supporting documents.**

**EXPLOSIVE AND FLAMMABLE OPERATIONS**

There are inherent potential dangers associated with locating HUD-assisted projects near hazardous facilities which store, handle, or process hazardous substances of a flammable or explosive nature. Project sites located too close to facilities handling, storing or processing conventional fuels, hazardous gases or chemicals of an explosive or flammable nature may expose occupants or end-users of a project to the risk of injury in the event of an explosion.

Blast overpressure and thermal radiation standards are used as a basis for calculating acceptable separation distances (ASDs) for HUD-assisted projects from specific, stationary hazardous operations which store, handle, or process substances of fire or explosive prone nature. HUD-assisted projects must meet ASDs or else mitigation measures must be undertaken.
What do I do?

1. **Determine if your project includes any of the following activities:** development, construction, rehabilitation that will increase residential densities, or conversion. If your project does not include any of these activities, proceed to Step 5a.

2. **Determine if there are any current or planned stationary aboveground storage containers within 1 mile of the project site.** Apply the following criteria:
   - a. Storage containers of more than 100 gallon capacity, containing common liquid industrial fuels OR
   - b. Of any capacity containing hazardous liquids or gases that are not common liquid industrial fuels.

   See Appendix 11 for a list of hazardous liquids and gases. NOTE: Stationary aboveground containers that store natural gas and have floating tops are excluded from 24 CFR 51, Subpart C as well as underground storage containers, mobile conveyances (tank trucks, barges, rail road cars), and pipelines, such as high pressure natural gas transmission pipelines or liquid petroleum pipelines. If your project is a single family (1-4 unit) FHA-insured property, do not include/identify tanks that are ancillary to the operation of your project (e.g., comfort heating, cooking, water heating) because they are excluded from 24 CFR 51, Subpart C. If your project site is not within one mile of any of the storage containers listed above, proceed to Step 5b.

3. **Determine if the Separation Distance from the project is acceptable based on standards in the regulation.** The Acceptable Separation Distance (ASD) can be calculated based on the volume of the container, the contents, and whether or not the container is diked. A diked container is not the same as a double walled container. A double walled container, for ASD calculations, is a container without a dike, and it shall be evaluated as a single-walled container. The regulation only considers storage tank contents that are products classified as flammable and combustible. This information can be found in the product Material Safety Data Sheet. Once the volume of the container (gallons), dike dimensions, and phase of state of the product (liquid or gas) are known, the ASD can be calculated by using the electronic calculator. The ASD is measured from the center of the assessed container to the perimeter of the proposed HUD-assisted project site. If the ASD is not met, mitigation is required, or another site must be considered. Options to mitigation are discussed in the HUD guidebook Acceptable Separation Distance. Work with a licensed engineer to determine whether an existing barrier (natural or man-made) is sufficient mitigation or to design a barrier. Proceed to Step 5c or 5d.

4. **If the project includes a hazardous facility (a facility that mainly stores, handles or processes flammable or combustible chemicals such as bulk fuel storage facilities and refineries), determine if the facility is located at an acceptable separation distance from residences and any other facility or area where people may congregate or be present.** See guidance above on calculating the ASD.

5. **Make a determination regarding aboveground storage tanks:** There are four possible determinations applicable to aboveground storage tanks:
   - a. The project does not include development, construction, rehabilitation that will increase residential densities, or conversion.
b. Within one mile of the project site there are no current or planned stationary aboveground storage containers of more than 100-gallon capacity containing common liquid industrial fuels or of any capacity containing hazardous liquids or gases that are not common liquid industrial fuels. Your ERR should include:
   - Documentation supporting your determination (ex: site visit notes, aerial maps, etc).

c. The project site is at an acceptable separation distance from such containers. Your ERR should include:
   - Project site map.
   - Documentation of your ASD calculation.

d. The existing or planned barrier would serve as sufficient mitigation. Your ERR should include:
   - Documentation, including correspondence with licensed engineer, supporting this determination.

6. Make a determination regarding hazardous facilities: There are three possible determinations applicable to hazardous facilities:
   a. The project does not include a hazardous facility.
   b. The hazardous facility is located at an acceptable separation distance from residences and any other facility or area where people may congregate or be present. Your ERR should include:
      - Project site map.
      - Documentation of your ASD calculation.
   c. The existing or planned barrier would serve as sufficient mitigation. Your ERR should include:
      - Documentation, including correspondence with licensed engineer, supporting this determination.

7. Note your determination on the statutory checklist found in your ERR Guide and attach supporting documents.

SITE CONTAMINATION

It is HUD policy, as described in 24 CFR Part 50.3(i) and 24 CFR 58.5(i)(2), that:

1. All property proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gasses, and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property.

2. Environmental review of multifamily and non-residential properties shall include evaluation of previous uses of the site and other evidence of contamination on or near the site, to assure that occupants of proposed sites are not adversely affected by the hazards.

3. Particular attention should be given to any proposed site on or in the general proximity of such areas as dumps, landfills, industrial sites, or other locations that contain, or may have contained, hazardous wastes.

4. The responsible entity shall use current techniques by qualified professionals to undertake investigations determined necessary.
It is therefore essential that responsible entities, potential grant applicants, and other HUD program participants become familiar with the potential environmental issues involving property before leasing, optioning, and/or acquiring the property. Unknowing individuals or parties that acquire contaminated property with good intentions could face liability for clean-up costs under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), third party lawsuits, and costly delays in implementing the project.

What do I do?

1. Use NEPA Assist to determine if your project site is (a) listed on an EPA Superfund National Priorities or CERCLA List, (b) located within 3,000 feet of a toxic solid waste landfill site (RCRA or TRI listing), or (c) your project site has an underground storage tank. For any of these conditions, you must have an ASTM Phase 1 Report done by a qualified professional. Contact MAG for additional guidance if this is the case.

2. Review databases maintained by US EPA and state and local environmental quality department or agencies to screen for potential on-site and off-site facilities that could pose health and safety problems and toxic clean-up sites that are presently under analysis or remediation.

3. Perform a site inspection of the project site and adjacent properties using this form. Note: removal of any underground storage tanks will require a state air quality permit. Contact MAG for further assistance.

4. Investigate previous uses of the site. Research may include building and use permit records, Sanborn Co. maps, interviewing property owners or managers, analyzing local land use records, permits, and violations, and consulting with your local planning or community development staff.

5. Determine if an ASTM Phase 1 report is necessary. When site conditions indicate that the subject property is contaminated or likely contaminated by toxic substances, hazardous materials or petroleum products, a Phase 1 report is necessary. Any hazards that are identified should be evaluated for the potential to affect the health and safety of the occupants and end-users. Contact MAG for additional guidance.

6. Determine if your project is likely to disturb asbestos containing materials or lead based paint or if your project site is likely to have mold or radon present. If any of these conditions are likely, contact a qualified professional to perform tests and determine appropriate mitigation. Disturbing or removing asbestos will require a state air quality permit. Contact MAG for further assistance.

7. Make a determination: There are three possible determinations applicable to hazardous facilities:
   a. The site is not contaminated. Your ERR should include:
      - Documentation (including map) of your CERCLA, RCRA, and TRI search (Using NEPA Assist).
      - Any supporting documentation including review of federal, state, and local environmental quality databases, land use records, consultation records, etc.
      - Completed site inspection form.
      - Any test results performed by qualified professionals.
b. The hazard will not affect health and safety of the occupants or conflict with the intended use of the site, including any mitigation measures used. Your ERR should include:
  - Documentation (including map) of your CERCLA, RCRA, and TRI search (Using NEPA Assist).
  - Any supporting documentation including review of federal, state, and local environmental quality databases, land use records, consultation records, etc.
  - Completed site inspection form.
  - Test results performed by qualified professionals.

c. The site has been cleaned up according to EPA or state standards for residential properties, which requires a letter of “No Further Action” from the appropriate state department/agency, or a “Response Action Outcome” letter from the Licensed Site Remediation Professional.

8. Note your determination on the statutory checklist found in your ERR Guide and attach supporting documents.

AIRPORT HAZARDS

Some types of development are incompatible for locations in the immediate vicinity of airports and airfields. Potential aircraft accident problems pose a hazard to end users of these development projects. If the proposed project is located near an airport or in the immediate area of the landing and approach zones, additional information is necessary to determine whether this issue is a concern and if so, how to mitigate it.

What do I do?

1. Determine if your project is within 15,000 feet of a military airport or 2,500 feet of a civilian airport. Use NEPA Assist to measure the distance from your project site to nearby airports (Provo and Spanish Fork). If your project is not within these distances, proceed to Step 3a.

2. If within proximity to an airport as defined above, determine if your project is located within an Accident Potential Zone (APZ) or Runway Protection Zone/Clear Zone (RPZ/CZ). A map of RPZ/CZs in Utah County is included in Appendix 13. If your project is within an APZ or RPZ/CZ, contact MAG staff for further guidance. If not, proceed to Step 3b.

3. Make a determination: There are seven potential determinations applicable to Airport Clear Zones/Accident Potential Zones:
   a. The project site is NOT within 15,000 feet of a military airport or within 2,500 feet of a civilian airport. Your ERR should include:
      - A map showing the distance between the project site and nearby airports.
   b. The project site is within 15,000 feet of a military airport but not within a designated APZ. Your ERR should include:
      - A map showing that the project is not within a designated APZ or RPZ/CZ.

4. Note your determination on the statutory checklist found in your ERR Guide and attach supporting documents.