

**E-4a Statutory Worksheet – OOHR Reconstruction**

**Project Name:**

**Recipient:**

**A.** **24 CFR §58.5 STATUTES, EXECUTIVE ORDERS & REGULATIONS**

Project Name and Description – Include all contemplated actions that logically are either geographically or functionally part of the project: [Insert Scope of Work]

**DIRECTIONS -** Check “**A**” in the Status Column when the project, by its nature, does not affect the resources under consideration; OR check “**B**” if the project triggers formal compliance consultation with the oversight agency, or requires mitigation. Compliance documentation must contain **verifiable source documents and relevant base data. Attach reviews, consultations, and special studies as appropriate. See instructions for additional guidance.**

**B. Compliance Factors:**

|  |  |  |
| --- | --- | --- |
| **Statutes, Executive Orders, and Regulations Listed at 24 CFR §58.5** | **Status A/B** | **Compliance Determination and Documentation (letters, phone calls, on-site visit dates, maps, websites etc.) MUST BE CITED** |

|  |  |  |  |
| --- | --- | --- | --- |
| 1. Historic Preservation (includes archeology & relevant Tribes)  [36 CFR Part 800] |  |  |  |
| 2. Floodplain Management  [24 CFR 55, Executive Order 11988] |  |  |  |
| 3. Wetland Protection  [ Executive Order 11990] |  |  |  |
| 4. Coastal Zone Management Act  [Sections 307(c), (d)] |  |  | Projects located in HUD Region IX (CA, AZ, NV, HI, Guam) have no coastal barrier resources. Likewise, projects located in the State of Arizona have no coastal zones and are therefore considered to be in compliance with the related laws and regulations. |
| 5. Sole Source Aquifers  [40 CFR 149] |  |  | Per HUD-EPA (Region IX) Sole Source Aquifer Memorandum of Understanding of 1990, activity of housing rehabilitation reconstruction does not require consultation. |
| 6. Endangered Species Act  [50 CFR 402] |  |  |  |
| 7. Wild and Scenic Rivers Act.  [Sections 7(b), and (c)] |  |  |  |
| 8. Clean Air Act  [ Sections 176(c), (d), and  40 CFR 6, 51, 93] |  |  |  |
| 9. Farm Land Protection Policy Act  [ 7 CFR 658] |  |  |  |
| 10. Environmental Justice  [Executive Order 12898] |  |  |  |
| 11. **HUD Environmental Standards**  Noise Abatement and Control  [24 CFR 51B] |  |  |  |
| Explosive & Flammable  Operations  [24 CFR 51C] |  |  |  |
| Hazardous, Toxic or Radioactive Materials & Substances  [24 CFR 58.5(i)(2)] |  |  |  |
| Airport Clear Zones &  Accident Potential Zones  [24 CFR 51D] |  |  |  |

**DETERMINATION:**

This project converts to EXEMPT, per Section 58.34(a)(12), because it does not require any mitigation for compliance with any listed statutes or authorities, nor requires any formal permit or license (Status “A” has been determined in the status column for all authorities); **Funds may be committed and drawn down** for this (now) EXEMPT project; OR

This project cannot be converted to Exempt status because one or more statutes or authorities require formal consultation or mitigation. Complete consultation/mitigation protocol requirements. **Publish NOI/RROF and obtain Authority to Use Grant Funds** (ADOH E-13/HUD 7015.16) per Section 58.70 and 58.71 before committing or drawing down funds; OR

The unusual circumstances of this project may result in a significant environmental impact. This project requires preparation of an Environmental Assessment (EA). Prepare EA according to 24 CFR Part 58 Subpart E.

Prepared by *(insert name and title)*

Signature Date

Certifying Officer for Responsible Entity *(insert name and title)*

Signature Date

**Form E-4a, Statutory Worksheet – OOHR Reconstruction Instructions**

**A.** Insert the Scope of Work for the proposed project in the blank provided including the project location or area of potential effect (APE).

**B.** Compliance Factors: Statutes, Executive orders, and Regulations listed at 24 CFR §58.5.

For HUD funded projects that are categorically excluded per 24 CFR §58.35(a), the Responsible Entity (RE) must make a determination of whether the proposal achieves compliance with each applicable statute, Executive Order, or regulation with or without requiring formal consultation, mitigation, permits, or having adverse effects on the resources protected by the statute. (These instructions are a brief description of essential findings needed to establish compliance. THEY DO NOT REPLACE THE APPLICABLE REGULATIONS. Applicable regulations take precedence over these brief instructions). The preparer of the Statutory Worksheet must DOCUMENT OR ATTACH THE SOURCES OF THE DETERMINATION.

**Record the finding status on the STATUTORY WORKSHEET for each listed federal statute, regulation, authority as follows (check only one – A or B): Status “A”** applies when compliance with the authority is achieved without adverse effects on the protected resource, without necessary mitigation or attenuation, **AND** when no formal consultation, permit or agreement is required to establish compliance. In these situations, check “A” box in the STATUTORY WORKSHEET status column. **Status “B”** applies when project compliance with the authority requires formal consultation, a permit or agreement, OR when the proposal may have an adverse effect on the protected resources. If column “B” is checked, the recipient will have to identify and complete additional steps or formal procedures prior to submitting a Request for Release of Funds (RROF) to HUD or to the State. Evidence of completion and implementation of the required procedures or mitigation must be retained in the project Environmental Review Record (ERR).

**Compliance Determination & Documentation (letters, phone calls, on-site visit dates, maps, websites etc.) MUST BE CITED.** Identify supporting documentation for each statute, in the form of: letters sent to agencies/organizations and their replies; documented phone calls (include date, person contacted, person placing the phone call, questions asked, responses); maps or plans (and their location if they are not in the ERR); website addresses and the research obtained from those sites; dates of on-site visits, persons conducting such visits, and their expertise to make the determination. In most instances this column will reference attachments to the E-4 form. (See ERR Handbook Section 2.3 for more information about source documentation.)

**1. Historic Preservation (includes archeology & relevant Tribes)[36 CFR Part 800]**

(See also ERR Handbook Section 9 which describes the Advisory Council Procedures on Historic Preservation, also known as the Section 106 process.)

Guidance: <https://www.hudexchange.info/programs/environmental-review/historic-preservation/>

**Actions:** 1. Determine whether SHPO Consultation is necessary by reviewing the “SHPO Guidance for HUD/ADOH Project Review” available under the Environmental Review Forms section of the Handbooks page of the ADOH website at: <https://housing.az.gov/documents-links/handbooks>. If consultation is required, follow the “SHPO Checklist for HUD/ADOH Submissions” also available on the ADOH Website

2. Determine whether THPO consultation is necessary by completing the E-05 “Checklist for Tribal Consultation under Section 106” form available under the Environmental Review Forms section of the Handbooks page of the ADOH website at: <https://housing.az.gov/documents-links/handbooks>. If Consultation is required solicit input from Tribal Historic Preservation Officer (THPO) as well as relevant tribes (as found on TDAT <https://egis.hud.gov/TDAT/>. Consultation with the SHPO/THPO may extend the time necessary for completing the ERR. The SHPO/THPO must be allowed 35 days from receipt of the documents to comment on the proposed activity or 45 days if the project is determined eligible for the National Register. SHPO/THPO documents should be sent certified mail with return receipt to document the SHPO/THPO receipt date. A.R.S. §41-865 requires that Recipients contact The Arizona State Museum only if village ruins or burial grounds are thought to exist at the project site or if such are identified by the SHPO/THPO. If you have local historic preservation committee, it is recommended that they be given a courtesy consultation/notification.

**Column A:** The Recipient and SHPO/THPO agree that there are no National Register (NR) or NR-eligible properties or properties with traditional religious and cultural importance within the Area of Potential Effect (APE) affected per 36 CFR 800.4, **OR** the Recipient and SHPO/THPO agree that the project will have no effect on NR or NR-eligible properties, or properties with traditional religious and cultural importance within the APE **OR** SHPO has not objected within 35 days from the signed certified receipt to such fully documented determination

**Column B:** The project will have an effect on NR or NR-eligible properties or properties with traditional religious and cultural importance within the APE. Consult with SHPO/THPO. See ERR Handbook Section 9 which describes the additional actions to be taken including contacting the National Advisory Council on Historic Preservation, and allowing 45 days for a response.

**2. Floodplain Management [24 CFR 55, Executive Order 11988]**

Guidance: <https://www.hudexchange.info/programs/environmental-review/floodplain-management/>

FEMA Maps: <https://msc.fema.gov/portal/home> <https://msc.fema.gov/portal/home>

**Actions:** Review FEMA Flood Hazard Boundary Map or Flood Insurance Rate Map. Cite map number and include a color copy of the map with the project site indicated clearly on the map. If floodplain map is not available for your project area, contact Arizona Department of Water Resources and the City/Town/County Engineer or local Flood Control Agency.

**Column A:** The project does not involve property acquisition, management, construction or improvements within a 100-year floodplain (Zones A or V) identified by FEMA maps, and does not involve a “critical action” (e.g., emergency facilities, facility for mobility impaired persons, hospital etc.) within a 500 year floodplain (Zone B).

**Column B:** The project lies within or will have an impact on a 100-year floodplain for a critical action or a 500-year floodplain for a critical action. Complete the 8-step decision-making process (Form E-9) according to 24 CFR Part 55.20 to document that there are no practicable alternatives to the proposal and to mitigate effects of the project in a floodplain.

See ERR Handbook Section 8 for further information.

**3. Wetland Protection [Executive Order 11990]**

Guidance: <https://www.hudexchange.info/programs/environmental-review/wetlands-protection/>

**Actions:** Does the project involve new construction as defined by Section 7 of Executive Order 11990 (including draining, dredging, channelizing, filling, diking, impounding, and related activities and any structures or facilities begun or authorized after the effective date of Executive Order 11990 (May 24, 1977)); expansion of a building’s footprint; or ground disturbance?

If NO, document this in section 3 compliance determination column of the worksheet and check Column A. No further action is required.

If YES, review the U.S. Fish and Wildlife website for wetland mapping. Wetland Maps can be obtained at: <https://www.fws.gov/wetlands/data/mapper.html>. If your project does ***not lie within or will not affect a wetland***, document this in the compliance determination column and include a color copy of the wetland map for the project area with the project site clearly indicated on the map. Check Column A. No further action is required.

If YES and the project ***lies within or will affect*** a wetland, check Column B. Complete the 8-step decision making process (Form E-9) in 24 CFR 55.20 to document whether or not there are practicable alternatives and to mitigate effects of the project on wetlands and publish the Prior Notice (Form E-P.1). Such action also requires obtaining a permit from the U.S. Corps of Engineers under Section 404 of the Clean Water Act. Include a color copy of the map with the project location clearly indicated on the map.

If your project location is not available on the website, contact the U.S. Fish and Wildlife Service and the U.S. Army Corps of Engineers. If the project takes place in or on any existing buildings, ***do not*** contact the U.S. Army Corps of Engineers

**Column B:** The project lies within or will affect a wetland.

NOTE: If clearing of undeveloped land, a change of landscape features, or work on structures in or affecting the waters of the U.S. is proposed, contact the U.S. Army Corps of Engineers with a letter describing the activity so it may determine if a Clean Water Act or River and Harbor Act permit is required. Waters of the United States include wetlands, lakes, reservoirs, rivers, streams, dry stream beds, arroyos, washes, and other ephemeral watercourses.

**4. Coastal Zone Management Act [Sections 307(c), (d)]**

NOTE: Projects located in HUD Region IX (CA, AZ, NV, HI, Guam) have no coastal barrier resources. Likewise, projects located in the State of Arizona have no coastal zones and are therefore considered to be in compliance with the related laws and regulations.

**Column A**: This box has been checked for you. No further action is required.

**Column B**: This box is not applicable for projects located in the State of Arizona.

**5. Sole Source Aquifers (Safe Drinking Water Act) [40 CFR 149]**

NOTE: There are two (2) EPA designated sole source aquifers identified in Arizona including portions of Pima, Pinal, Santa Cruz and Cochise counties. These are known as the Naco-Bisbee Aquifer and the Upper Santa Cruz and Avra Basin Aquifer.

Per HUD-EPA (Region IX) Sole Source Aquifer Memorandum of Understanding of 1990, activity of housing rehabilitation reconstruction does not require consultation.

**Column A:** This box has been checked for you. No further action is required.

**Column B:** This box is not applicable for housing rehabilitation reconstruction projects.

**6. Endangered Species Act [50 CFR 402]**

Guidance: <https://www.hudexchange.info/programs/environmental-review/endangered-species/>

Endangered species data: <http://www.fws.gov/endangered/>

**Actions:** Does the project involve any activities that have the potential to affect species or habitats? If so, are federally listed species or designated habitats present in the action area?

**Column A:** The RE documents that the proposal will have “no effect” or “is not likely to adversely affect” any federally protected (listed or proposed) Threatened or Endangered Species (i.e., plants or animals, fish, or invertebrates), nor adversely modify designated critical habitats. This finding is to be based on the review of designated critical habitats, t. Document with copy of FWS report.

**Column B:** Consult with the Arizona Game and Fish, as appropriate, in accordance with procedural regulations contained in 50 CFR Part 402. Formal consultation with Game and Fish is always required for federally funded “major construction” activities and anytime a “likely to adversely affect” determination is made. Document implementation of actions recommended by the Game and Fish consulted, or reasons for non-implementation.

**7. Wild and Scenic Rivers Act [Sections 7(b), and (c)]**

Guidance: <https://www.hudexchange.info/programs/environmental-review/wild-and-scenic-rivers/>

Maps and data: <http://www.rivers.gov/>

<https://www.nps.gov/subjects/rivers/nationwide-rivers-inventory.htm>

NOTE: Is the project located within one (1) mile of either of the two (2) designated Wild and Scenic Rivers (Fossil Creek which flows from the Mogollon Rim near Strawberry and meets the Verde River, Verde River which flows from Camp Verde to about 2 miles south of Table Mountain); or from a river listed as scenic, wild or recreational on the National Rivers Inventory (NRI)?

**Column A:** The project is not located within one mile of a listed Wild and Scenic River, OR the project will have no effects on the natural, free flowing or scenic qualities of a river in the National Wild and Scenic Rivers system. Document with a color copy of the Wild and Scenic River Map with your project location clearly marked on the map. Also, include narrative that the project location has been compared to the NRI site and the project is not located near any of the rivers designated on the NRI as wild, scenic or recreational.

**Column B:** The project **is** located within one mile of a listed Wild and Scenic River and/or rivers on the NRI OR the project will have an impact. Consult with the U.S. Department of Interior, National Park Service for impact resolution and mitigation. Document the implementation of National Forest Service recommendations.

**8. Clean Air Act (Air Quality) [ Sections 176(c), (d), and 40 CFR 6, 51, 93]**

Guidance:<https://www.hudexchange.info/programs/environmental-review/air-quality/>

Non-Attainment area Mapping Tool: <http://www.epa.gov/emefdata/em4ef.home>

Actions: Does your project include new construction or conversion of land? If NO, check Column A.

If YES, go to EPA Green Book (see link above): is your project’s air quality management district or county in non-attainment or maintenance status for any criteria pollutants? If NO, check Column A.

If YES, Contact the Arizona Department of Environmental Quality, Office of Air Quality to determine whether the project will exceed the de minimis threshold emissions levels. If NO, check column A. If YES, go to Column B follow suitable mitigation measures identified/required by ADEQ, Office of Air Quality.

**Column A:** The project does not include new construction or conversion of land OR the project is located in an attainment area OR, through contact with the Arizona Department of Environmental Quality (DEQ), Office of Air Quality it has been determined that the project will not exceed the de minimis or threshold emissions levels or screening levels, AND the project does not require individual NESHAP permit or notification.

**Column B:** Negotiate suitable mitigation measures with DEQ, obtain necessary permits, and issue required notices. (For example, 40 CFR §61.145 requires 10-day prior notification to the Air Quality District Administrator whenever either 260 linear ft., 160 sq.ft., or 35 cubic ft., of asbestos containing material is to be disturbed during rehabilitation/demolition activities in multi-family properties). Document the implementation of DEQ recommendations. If the issues are transportation related, priority must be given to implementing those portions of the SIP to achieve and maintain national primary air quality standards

**9. Farm Land Protection Policy Act [ 7 CFR 658]**

Guidance: <https://www.hudexchange.info/programs/environmental-review/farmlands-protection/>

Census Maps: <http://websoilsurvey.nrcs.usda.gov/app/HomePage.htm>

NOTE: If the project is NOT acquisition of undeveloped land, new construction or conversion of agricultural land to a non-agricultural use then the FLPP Act does not apply. The Act does not apply to land already in or committed to urban development or those that could otherwise not convert farmland to non-agricultural uses.

**Actions:** Determine if your project is considered “developed” for the purpose of FLPP by consulting U.S. Census Urban Areas Maps. If you cannot find your project location on one of these maps, consult the USDA Natural Resources Conservation Service.

**Column A:** The project site does not include prime or unique farmland, or other farmland of statewide or local importance as identified by the U.S. Department of Agriculture, Natural Resources Conservation Service NRCS (formerly the Soil Conservation Service, **OR** the project site includes prime or unique farmland, but is located in an area committed to urban uses.

**Column B:** Request evaluation of land type from the NRCS using Form AD-1006, and consider the resulting rating in deciding whether to approve the proposal, as well as mitigation measures (including measures to prevent adverse effects on adjacent farmlands) Document implementation of the Soil Conservation Service recommendations.

**10. Environmental Justice [Executive Order 12898]**

Guidance:<https://www.hudexchange.info/programs/environmental-review/environmental-justice/>

Mapping tool: <http://www.epa.gov/emefdata/em4ef.home>

**NOTE: HUD strongly encourages starting the Environmental Justice analysis only AFTER all other laws and authorities have been completed.**

**Actions:** The purpose of Executive Order 12898 is to ensure that there is no disproportionately adverse environmental impact (mainly toxic dumps and nuclear waste facilities) on low income and minority areas due to federal projects. Since there are no agencies or experts to contact to make such a determination, it is presumed that if there is no negative impact in the other laws and authorities areas listed, then there is no impact on Environmental Justice.

**Column A:** The proposed site is suitable for its proposed use and will NOT be adversely impacted by adverse environmental conditions.

**Column B:** Site suitability is a concern; the proposal is adversely affected by environmental conditions impacting low income or minority populations. Avoid such impacts or mitigate them to the extent practicable. Address and mitigate the disproportional human health or environmental effects adversely affecting the low income or minority populations OR reject the proposal.

**11. HUD Environmental Standards**

* **Noise Abatement and Control [24 CFR 51B]**

Guidance: <https://www.hudexchange.info/programs/environmental-review/noise-abatement-and-control/>

**NOTE: If your project does not involve new construction for residential use or rehabilitation of existing residential property OR if your project is a research demonstration that does not result in new construction or reconstruction then Noise Abatement and Control does not apply. Check Column A and document through narrative. OTHERWISE:**

**Actions:** Review a map to determine the location of major roads within 1,000 feet of the project, railroad uses within 3,000 feet and military or FAA regulated airfields within 15 miles of the vicinity of the project. Contact the project engineer or other persons knowledgeable about the potential noise impacts of the proposed project.

**Column A:** The project does not involve development of noise sensitive uses, OR the project is not within line-of-sight of a major or arterial roadway or railroad, OR ambient noise level is documented to be 65 LDN (CNEL) or less, based upon the HUD Noise Assessment Guidelines (NAG) for calculating noise levels and Airport Noise Contour map.

**Column B:** Apply the noise standard, per 24 CFR §51.101, to the decision whether to approve the proposal (see §51.104), and implement noise attenuation measures (NAG page 39-40) as applicable.

* **Explosive & Flammable 0perations [24 CFR 51C]**

Guidance: <https://www.hudexchange.info/programs/environmental-review/explosive-and-flammable-facilities/>

**Actions:** conduct an onsite inspection and determine if there is any above ground storage of explosive, flammable or chemical substances. Contact the Public Safety Officer, Fire Chief or Planning Director.

**Column A:** The project is located at an Acceptable Separation Distance (ASD) from any above-ground explosive or flammable fuels or chemicals containers according to “Siting of HUD-Assisted Projects Near Hazardous Facilities” (Appendices F & G, pp. 51-52), **OR** the project will expose neither people nor buildings to such hazards

**Column B:** mitigate the blast overpressure or thermal radiation hazard with the construction of a barrier of adequate size and strength to protect the project (per 24 CFR 51.205).

* **Hazardous, Toxic or Radioactive Materials & Substances [24 CFR 58.5(i)(2)]**

Guidance: <https://www.hudexchange.info/programs/environmental-review/site-contamination/>

Mapping Tool: <http://www.epa.gov/emefdata/em4ef.home>

NOTE: Federal funds should NOT be used on activities supporting new development for habitation when the area may be affected by toxic chemicals or radioactive materials.

**Actions:** Use the EPA Mapping Tool at the link provided above. Input the project location and use the dropdown menu at the “Search Envirofacts” to select “Search by Program”. You will see a listing that will include Superfund Sites, Toxic Releases, and Hazardous Waste etc. If a “(0)” appears next to all of the listed programs, print map and indicate project location on the Map. No further consultation is necessary. If a number other than “(0)” appears, you must click the box for the corresponding program, which will plot the hazardous, toxic or radioactive materials facility sites on the map. Click the plotted balloon for hazardous, toxic or radioactive materials facility site and you will see the name and address of the facility. Click on the name of the facility to access the compliance data. If facility is under a current violation or compliance order you will have to do further consultation with the appropriate Federal, state or local oversight agency.

**Column A:** The subject and adjacent properties are free of hazardous materials, contamination, toxic chemicals, gasses and radioactive substances, which could affect the health or safety of occupants or conflict with the intended use of the subject property. Particular attention should be given to nearby dumps, landfills, industrial sites and other operations with hazardous wastes.

**Column B:** Mitigate the adverse environmental condition by removing, stabilizing or encapsulating the toxic substances in accordance with the requirements of the appropriate Federal, state or local oversight agency; **OR** reject the proposal.

* **Airport Clear Zones & Accident Potential Zones [24 CFR 51D]**

Guidance: <https://www.hudexchange.info/programs/environmental-review/airport-hazards/>

Mapping Tool**:** <http://www.azdot.gov/maps>

**Actions:** Use the ADOT Arizona Airports link to map your project address and its proximity to airports: Is your project within 15,000 feet of a military airport or 2.500 feet of a civilian airport? If NO, Check Column A, review of this factor is complete. If NO, Contact the closest airport to determine whether the project is considered to lie within a designated civilian airport Runway Clear Zone (RCZ), a military airfield Clear Zone (CZ) or an Accident Potential Zone (APZ).

**Column A:** The project is not within an FAA-designated civilian airport Runway Clear Zone (RCZ) -or Runway Protection Zone, or within a military airfield Clear Zone (CZ) or Accident Potential Zone (APZ) -Approach Protection Zone, based upon information from the civilian airport or military airfield administrator identifying the boundaries of such zones, **OR** the project involves only minor rehabilitation, **OR** the project involves only the sale or purchase of an existing property in the RCZ or CZ;

**Column B:** It is **HUD** policy not to provide any development assistance, subsidy or insurance in RCZs or CZs unless the project will not be frequently used or occupied by people and the airport operator provides written assurances that there are no plans to purchase the project site.