

Review of Agency Requirements for Complying with the National Environmental Policy Act (NEPA) for Tribes and Alaskan Native Villages

In support of the grant paperwork streamlining workgroup of the Water Infrastructure Task Force, this review of federal agency regulations and guidance documents focuses on Tribal water and wastewater infrastructure projects, and technical assistance to Tribes for the U.S. Environmental Protection Agency (EPA), the U.S. Department of Housing and Urban Development (HUD), the U.S. Department of Health and Human Services Indian Health Service (IHS), the U.S. Department of Interior Bureau of Reclamation (USBR), and the U.S. Department of Agriculture (USDA). All information provided below is summarized from the federal agency regulations and guidance documents (see reference list after the table), and should not be quoted “as is.” The symbol (...) identifies additional information available in the documents reviewed, but not referenced directly because it is presumed to be not directly applicable. In addition, analysis comments are made in italicized font to distinguish them from the overall summary. Relevant agency checklists and/or required environmental information are provided in Appendices A through D for reference. Note that the analysis only includes NEPA, not other environmental laws and regulations.

TABLE 1: NEPA SUMMARY BY ITF FEDERAL AGENCY PARTNER

EPA	HUD	IHS	USBR	USDA
A. NEPA Applicable Activities				
EPA actions subject to NEPA (40 CFR §6.101(a)) include: - The award of wastewater treatment construction grants under Title II of the Clean Water Act (CWA); - EPA's issuance of new source National Pollutant Discharge Elimination System (NPDES) permits under section 402 of the CWA; (...). Actions statutorily exempt from NEPA: - EPA actions under the CWA, except those identified in §6.101(a); and - EPA actions under the Clean Air Act.	<i>HUD activities subject to NEPA are described under 24 CFR Parts 50 and Part 58, depending on the responsible party for the NEPA review, i.e., HUD (Part 50), or the Tribe (Part 58). Under 24 CFR Parts 50 and 58: the following HUD activities are exempt from NEPA (only those relevant to this review are listed here):</i> - Environmental and other studies, resource identification and the development of plans and strategies; - Public services that will not have a physical impact or result in any physical changes, including services for employment, (...), health, (...) energy conservation; - Engineering or design costs; - Technical assistance and training; (...); and - Assistance for improvements that do not alter environmental conditions and are limited to protection, repair or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration. <u>Under 24 CFR Part 50</u> regulations apply to: - All HUD policy actions, and - All HUD project actions. <u>Under 24 CFR Part 58</u> regulations apply to activities where statutory authority exists for recipients to assume environmental responsibilities, including: - Community Development Block Grant programs; (...); - Assistance provided under NAHASDA under: (i) Section 105 for Indian Housing Block Grants and Federal Guarantees or Financing for Tribal Housing Authorities; and (ii) Section 806 for Native Hawaiian Housing Block Grants; and - Indian Housing Loan Guarantees.	IHS activities and programs that may require environmental review and compliance include (<i>relevant to this review</i>): - Grants and programs that provide grants; - Contracting and Acquisitions; - Custodial and grounds maintenance; (...); and - Construction (including sanitation facilities, renovations, and ground disturbing activities).	NEPA compliance is triggered by a discretionary Federal action that is subject to USBR control and responsibility, examples include: - Planning and construction of a project; - The granting of a permit to a third party; - The provision of Federal funding in a third party project; or - Other discretionary actions where a Federal decision is required. - The regulations (40 CFR 1508.18(a)) define a Federal action as including new and continuing activities, actions partly or entirely financed by Federal agencies (where some control and responsibility over the action remains with the Federal National Environmental Policy Act Handbook 3-4 agency [43 CFR 46.100]), actions conducted by Federal agencies, actions approved by Federal agencies, new or revised agency rules or regulations, and proposals for legislation.	Actions by USDA RUS including (<i>relevant to this review</i>): - The approval of financial assistance pursuant to the Electric, Telecommunications, and Water and Waste Programs; - The disposal of property held by RUS pursuant to such programs; (...).

EPA	HUD	IHS	USBR	USDA
B. Actions That Require/May Require an Environmental Assessment (EA)				
Actions that normally require an EA include: • The award of wastewater treatment construction grants under Title II of the CWA • EPA's issuance of new source NPDES permits under section 402 of the CWA • EPA actions involving renovations or new construction of facilities • (...)	<u>Under 24 CFR Part 50</u> : No specific requirements. <u>Under 24 CFR Part 58</u> : An EA is required if a project is not exempt (see NEPA Applicability above) or categorically excluded.	An EA is usually required when: • Environmental effects are uncertain, or • When the proposed project does not fit into the IHS or HHS categorical exclusions (most relevant exclusions are for construction-type activities) The purpose of the EA is to determine the need for an EIS or to satisfy a specific environmental requirement (e.g., IHS <u>requires an EA for proposals for a new solid waste landfill or a new wastewater plant that may discharge to local waters</u>).	An EA will be prepared for all USBR actions, except those: • Covered by a categorical exclusion; • Covered sufficiently by an earlier environmental document; or • For which a decision has already been made to prepare an EIS. The purpose of the EA is to allow the responsible official to determine whether to prepare an EIS.	An EA will be prepared for all proposed actions that are neither categorical exclusions nor normally requiring an EIS. For water and waste programs, an EA shall be prepared for applications for financial assistance for all proposed actions specifically not defined as a categorical exclusion or otherwise specifically categorized by the Administrator on a case-by-case basis.
C. Actions that Normally Require/May Require an Environmental Impact Statement (EIS)				
EPA actions that normally require an EIS include (<i>unlikely to apply to Tribal project</i>): • New wastewater treatment facilities or water supply systems for a community with a population greater than 100,000 • Expansion of existing wastewater treatment facilities that will increase existing discharge to an impaired water by greater than 10 MGD • (...). Additional criteria relevant to the action may require an EIS (<i>see list of extraordinary circumstances below</i>)	<u>Under 24 CFR Part 50 and 58</u> : An EIS is required when the project: • Is determined to have a potentially significant impact on the human environment; • Would provide a site or sites for, or result in the construction of, hospitals or nursing homes with 2,500 or more beds; and • Would remove, demolish, convert or substantially rehabilitate 2,500 or more existing housing units, or would result in the construction or installation of 2,500 or more housing units, or would provide sites for 2,500 or more housing units. <u>Under 24 CFR Part 50</u> : In addition to the above, an EIS may be required when the environmental concerns of one or more Federal authorities will be affected by the project (<i>i.e., other environmental laws and regulations</i>) <u>Under 24 CFR Part 58</u> : In addition to the above, an EIS is required when the project would provide enough additional water and sewer capacity to support 2,500 or more additional housing units.	EISs are written when “significant environmental impacts are likely to occur,” as determined by the environmental assessment (EA). (<i>IHS does not appear to provide categories of activities that always require an EIS</i>).	USBR major actions that normally require an EIS include the following proposals: • Feasibility Reports (FR) on water resources projects; • Definite Plan Reports (DPR) on water resources projects if not covered by an EIS at the FR stage or when there are major changes; • Repayment of water service contracts or amendments for irrigation, municipal, domestic, or industrial water where NEPA compliance does not already exist; • Project/operation modifications that cause a significant new impact; • Initiation of project construction if not covered by an EIS or when causing significant new impacts; • An EIS is normally required for a major Federal action where environmental effects are potentially significant. Major USBR actions normally requiring the preparation of an EIS are listed in Departmental Manual 516 DM 14.4. • (...).	Under the water and waste programs, no groups or sets of proposed actions normally require an EIS. The environmental review process is used to identify proposed actions for which an EIS is necessary. When an EIS is required, prior completion of an EA is not mandatory.

EPA	HUD	IHS	USBR	USDA
D. Categorical Exclusions (<i>Note: analysis only includes NEPA, not other environmental laws and regulations</i>)				
EPA actions may be categorically excluded if eligible, and action <u>does not involve any extraordinary circumstances</u> (<i>see below</i>). Eligible categorical exclusion with required documentation include: • Actions at <u>EPA owned or operated facilities</u> involving routine O&M (...) or construction of new minor ancillary facilities adjacent to or on the same property as existing facilities. • Actions relating to <u>existing infrastructure systems</u> (e.g., sewer, drinking water, and stormwater systems) that involve <u>minor upgrading, or minor expansion</u> of system capacity or rehabilitation of the existing system and system components or construction of new minor ancillary facilities adjacent to or on the same property as existing facilities. • Actions in <u>unsewered communities involving the replacement of existing onsite systems</u>, providing the new onsite systems do not result in substantial increases in the volume of discharge or the loadings of pollutants from existing sources, or relocate existing discharge. • Actions involving <u>re-issuance of a NPDES permit</u> for a new source providing the conclusions of the original NEPA document are still valid, there will be no degradation of the receiving waters, and the permit conditions do not change or are more environmentally protective. • Actions for <u>award of grants</u> authorized by Congress under EPA's annual Appropriations Act that are <u>solely for reimbursement</u> of the costs of a <u>project that was completed</u> prior to the date the appropriation was enacted. Categorical exclusion with no required documentation: (<i>none are assumed to be applicable to Tribal infrastructure</i>)	<u>Under 24 CFR 50</u>: Categorical exclusions apply to (<i>only those relevant to this review are listed</i>): • Building rehabilitation and improvements under certain conditions limiting costs and changes in density, capacity, and land use; • An individual action on small projects (e.g., 4 dwelling units where there is a maximum of four units on any one site, 5 or more housing units developed on scattered sites); and • Acquisition of an existing structure or vacant land provided it is retained for the same use. <u>Under 24 CFR 58</u>: Categorical exclusions apply to: • Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements when facilities and improvements are in place and will be retained in the same use without change in size or capacity of more than 20% (e.g., replacement of water or sewer lines ...). • (...) • Building rehabilitation and improvements under certain conditions limiting costs and changes in density, capacity, and land use; • An individual action on small projects (e.g., 4 dwelling units where there is a maximum of four units on any one site, 5 or more housing units developed on scattered sites); • Acquisition of an existing structure or vacant land provided it is retained for the same use. In addition, the following categorical exclusions are not subject to Sec. 58.5 (<i>i.e., other environmental laws and regulations</i>) • Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment and other incidental costs; • Economic development activities, including but not limited to, equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations.	Categorical exclusions apply to IHS program actions whether carried out directly by IHS, or funded or otherwise sponsored by IHS. These include the following (<i>relevant to this review</i>): • Provision of Tribal technical assistance (TA) for (...) and TA for the O&M of sanitation facilities; • Actions associated with construction of sanitation facilities to serve Indian homes and communities (with appropriate documentation) except that the following actions are <u>NOT</u> included: (iii) Construction of a sanitary landfill at a new waste disposal site; and (iv) Construction of a new wastewater treatment facility with direct discharge of treated sewage to surface waters.	Categorical exclusions applicable to USBR actions include the following (<i>relevant to this review</i>): <u>Project Implementation Activities</u> • Minor construction activities for authorized projects which correct unsatisfactory environmental conditions or supplement, or are enclosed in existing facilities. <u>Operators and Maintenance Activities</u> • Maintenance, rehabilitation, and replacement of existing facilities involving a minor change in size, location, and/or operation • Transfer of O&M of Federal facilities to other entities when O&M activities are agreed upon and remain unchanged; • (...) • Conduct of programs of demonstration, educational, and technical assistance to water user organizations for improvement of project and on-farm irrigation water use and management. <u>Grant and Loan Activities</u> • Rehabilitation and Betterment Act loans and contracts which involve repair, replacement, or modification of equipment in existing structures or minor repairs to existing dams, canals, laterals, drains, pipelines, and similar facilities; • The following proposed activities only when they are confined to areas already impacted by farming or developing activities, are considered minor, and where impacts are expected to be localized: - o Small Reclamation Projects Act grants and loans; - o Distribution System Loans Act - o Disaster Assistance Act studies, construction management, conservation, loans, water purchasing assistance, and water redistribution. <i>(The USBR categorical exclusion checklist included in Appendix C is provided as an example. While extraordinary circumstances must be addressed (see below) there is no required format for the checklist.)</i>	Certain categorically excluded USDA proposals may require that applicants submit an Environmental Report (ER) (<i>USDA-specific document not required by other agencies</i>). <u>Categorically excluded proposals not normally requiring an ER</u> include (<i>relevant to this review</i>): • <u>Emergency situation repairs</u> to restore service of damaged facilities of an applicant's system; • Award of financial assistance for technical assistance planning, environmental analysis, management studies, or feasibility studies; • Loan closing or servicing activities when not altering the purpose, operation, locations, or design of the initial proposal (e.g., amendment, financial assistance for cost overruns); • (...) <u>Categorically excluded proposals requiring an ER</u> include water and waste program applications for financial assistance for the following actions: • Rehabilitation of existing facilities or equipment, or the construction of new facilities near/related to existing facilities; • Facility improvements to meet current needs with a modest change in use, size, purpose or location from the original facility (must be predominantly residential use); • Construction of new facilities are designed to serve less than 500 equivalent dwelling units (EDUs) and with modest growth potential; • Extension, enlargement, or construction of interceptors, collection, transmission, or distribution lines within a 1-mile limit from existing service areas; • Installation of new water supply wells or water storage facilities that are required by a regulatory authority or standard engineering practice as backup to existing production well(s) or as reserve for fire protection; • (...).

EPA	HUD	IHS	USBR	USDA
E. Extraordinary Circumstances/Exceptions to the Categorical Exclusions				
Under the following circumstances, proposed actions are not categorically excluded (<i>see above</i>) if they are known or expected to have significant impacts on: • <u>Quality of the human environment</u> either individually or cumulatively over time; • Any community, <u>including minority communities</u>, low-income communities, or federally-recognized Indian tribal communities; • Federally listed <u>threatened or endangered species</u> or their critical habitat; • <u>National natural landmarks</u> or any property with nationally significant historic, architectural, prehistoric, archeological, or cultural value; • Important <u>natural resource areas</u> (e.g., wetlands, floodplains, significant agricultural lands, aquifer recharge zones, coastal zones, barrier islands, wild and scenic rivers, and significant fish or wildlife habitat); • <u>Air quality</u>; • Pattern and type of <u>land use</u> or growth and distribution of population, or may not be consistent with state or local government, or federally-recognized Indian tribe approved land use plans or federal land management plans; • Cause significant <u>public controversy</u> about a potential environmental impact of the proposed action; • Associated with providing financial assistance to a federal agency through an interagency agreement for a <u>project that is known or expected to have potentially significant environmental impacts</u>; and • <u>Conflict with [other] environmental, resource-protection, or land-use laws or regulations</u>.	<u>Under 24 CFR 50</u>: N/A <u>Under 24 CFR 58</u>: Under the following unusual conditions, and EA or EIS may be required: • Actions that are unique or without precedent; • Actions that are substantially similar to those that normally require an EIS; • Actions that are likely to alter existing HUD policy or HUD mandates; or • Actions that, due to unusual physical conditions on the site or in the vicinity, have the potential for a significant impact on the environment or in which the environment could have a significant impact on users of the facility.	Categorically excluded actions (<i>see above</i>) that may have the potential impacts or characteristics below cannot be categorically excluded: • Potential to <u>change the existing environment</u> where such change violates existing jurisdictional directives or other controls protecting that environment; • Potential/real <u>threat of violation of laws</u> or requirements imposed for the <u>protection of the environment or public health and safety</u>; • Likely to <u>cause controversy</u> about resulting environmental effects where such controversy is based on pertinent and substantial issues; • Involve <u>use of technology</u> where the possible effects are highly uncertain or involve <u>unique or unknown risks</u> (technology was not assessed previously for environmental impact); • Have adverse effects on <u>unique geographic characteristics</u> (e.g., <u>historic/</u> archeological/ cultural resources, and <u>natural resources</u> including wetlands and prime farmlands); • Establish a <u>precedent for future action</u> or represent a decision in principle about future actions with potentially significant environmental effects; • Have adverse effects on Federally listed <u>endangered or threatened species, or critical habitat</u>; • Require assessment for E.O. 11988 (<u>Floodplain Management</u>), E.O. 11990 (<u>Protection of Wetlands</u>), or the <u>Fish and Wildlife Coordination Act</u>; • Involve the use, transfer, or lease of <u>property used for hazardous waste storage for more than 1 year</u> (CERCLA 120(h)); and • Construction <u>projects significantly greater in scope or size</u> than normally experienced for a particular category of action.	Categorically excluded actions (<i>see above</i>) with the following characteristics or impacts are considered exceptions and cannot be categorically excluded: • When extraordinary circumstances exist • Significant impacts on <u>public health or safety</u>; • Significant impacts on <u>unique geographic characteristics</u> (e.g., historical/ cultural resources, natural resources); • Highly <u>controversial environmental effects</u>; • Highly uncertain and potentially <u>significant environmental effects</u> or involve <u>unique environmental risks</u>; • Establish a <u>precedent for future action</u> or represent a decision in principle about future actions with potentially significant environmental effects; • Have a direct relation to other actions with individually insignificant but <u>cumulatively significant environmental effects</u>; • Significant impacts on properties listed or eligible for listing on the National Register of Historic Places; • Significant impacts on species listed or proposed to be listed on the List of <u>Endangered or Threatened Species</u>, or their <u>habitat</u>; • Required compliance with E.O. 11988 (<u>Floodplain Management</u>), E.O. 11990 (<u>Protection of Wetlands</u>), or the <u>Fish and Wildlife Coordination Act</u>; and • <u>Violate laws</u> or requirements imposed <u>for the protection of the environment</u>. • Have a disproportionately high and adverse effect on low income or minority populations. • Significant impacts on Native American Indian or Alaskan Native Villages sacred sites (. . .) • Significant impacts on Noxious weeds (. . .)	N/A. <i>Most USDA proposals will require preparation of an ER, which would address many of the issues listed as exceptions or extraordinary circumstances for other agencies.</i>
F. Other (Adoption of Federal Documents)				
			(Taken from the USBR NEPA Handbook §3.12.1 Adoption of Federal Documents) The adoption of other Federal environmental documents is encouraged to avoid duplication. However, one basic premise of adopting documents is that the adopting agency must make its independent review of the document and take full responsibility for its scope and content.	(Taken from §1794.14 Interagency involvement and coordination) Where RUS has agreed to participate as a cooperating agency, in accordance with 40 CFR 1501.6, RUS may rely upon the lead agency's procedures for implementing NEPA procedures. In addition, RUS shall request that (...) the scope and content of the EA or EIS satisfies the statutory and regulatory requirements applicable to RUS (...).

The following table was developed to summarize compliance requirements listed either in agency checklists or as a list of information to be addressed as part of an environmental report (e.g., USDA). HUD uses a checklist for categorical exclusions subject to §58.5 (i.e., other environmental laws), which is provided in Appendix A. IHS and USBR use a checklist to identify categorical exclusions or the need for an EA. Both checklists are provided in Appendix B for IHS and Appendix C for USBR. USDA specifies environmental information that must be addressed in the ER to be used to determine the need for an EA, as listed in Appendix D. A similar checklist or list of compliance requirements was not identified for EPA at this time. It should be noted that most regulations reviewed under other agencies’ checklist or environmental requirements would be applicable to EPA environmental reviews. The requirements below are not listed in any particular order of priority.

TABLE 2: INTERNAL NEPA COMPLIANCE REQUIREMENTS OF EACH ITF FEDERAL AGENCY PARTNER

HUD	IHS	USBR	USDA
	Violation of applicable environmental, public health & safety laws or requirements?	Violation of orders, laws or requirements for environmental protection?	
	Other adverse considerations for the environment and/or public health & safety?	<u>Human Environment/Public Health & Safety</u> Significant impact on : • The quality of the human environment? • Public health or safety?	
	Controversial environmental effects?	Highly controversial environmental effects?	
	Establish a precedent for future action?	Establish a precedent for future action?	
<u>Wetland Protection</u> [Executive Order 11990; 3 CFR, §§ 2, 5] Projects adversely impacting a wetland are subject to Executive Order 11990 (Protection of Wetlands). HUD’s implementing regulations at 24 CFR Part 55--Floodplain Management, prescribe a process suitable for protecting wetlands. For proposed financial assistance for activities that will fill or degrade a wetland, HUD will require 8 Step processing (See 24 CFR 55.20) that may be performed concurrently with floodplain processing if applicable. Guidance at http://www.hud.gov/offices/cpd/environment/review/floodplain.cfm	<u>Wetlands and Water Resources</u> Violation of a Section 404 (CWA)/Section 10 (Rivers and Harbors Act) permits?	Significant impact on unique geographical features such as wetlands.	<u>Wetlands</u> • Soils surveys • National Wetland Inventory maps • Section 404 issues
<u>Wild and Scenic Rivers Act</u> [16 U.S.C. 1271, §§ 7(b), (c)] New construction and the acquisition of undeveloped land for water resources projects (i.e., water and sewer lines, water retention ponds, etc.), which are proposed in areas within one mile of a listed wild and scenic river, have the potential for impacting this natural resource Guidance at http://www.rivers.gov/wildriverslist.html	<u>Wild and Scenic Rivers Act</u> Adverse effect on wild, scenic, or recreational river area, or creation of conditions inconsistent with the character of the river?	Significant impact on unique geographical features such as wild or scenic rivers, rivers in the nationwide inventory, refuges.	<u>Formally Classified Lands</u> Wild & Scenic Rivers
<u>Floodplain Management</u> [Executive Order 11988; 24 CFR Part 55] 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. Guidance at http://www.hud.gov/offices/cpd/environment/review/floodplain.cfm	<u>Floodplains</u> • Located in 100- or 500-year floodplains? • Adverse impact on flood flows in floodplain or development in a floodplain?	Significant impact on unique geographical features such as floodplains.	<u>Floodplains</u> • Flood insurance rate maps • Soil surveys
<u>Farmland Protection Policy Act</u> [7 CFR Part 658] A finding of compliance with the requirements of the Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 et seq.) must be made for assisted new construction activities and the acquisition of undeveloped land. Guidance at http://www.hud.gov/offices/cpd/environment/review/farmlands.cfm	<u>Farmland Protection Policy Act</u> Convert significant agricultural lands to non-agricultural uses with >160 point score in farmland impact rating?	Significant impact on unique geographical features such as prime or unique farmlands.	<u>Important Farmland</u> Soil surveys

HUD	IHS	USBR	USDA
<u>Historic Preservation</u> [36 CFR Part 800] The National Historic Preservation Act, directs each Federal agency, and those Tribal, State, and Local governments that assume Federal agency responsibilities, to have a historic preservation program - that is, a program to protect historic resources and avoid or minimize possible harm that may result from agency decisions and actions. The NHPA does not prohibit change to historic properties, but it does require that alternatives be considered. Guidance at http://www.hud.gov/offices/cpd/environment/review/historic.cfm	<u>Historic Preservation</u> - Action on property over 50 years old - Adverse effect on property listed or eligible for the National Register of Historic Places	Significant impact on properties listed or eligible for listing in the National Register for Historic Places? (To be completed only by Regional Archeologist)	<u>Formally Classified Lands</u> - Monuments - Landmarks <u>Historic Properties</u> - Historic and archeological sites - Traditional cultural properties
<u>Endangered Species Act</u> [50 CFR Part 402] The Endangered Species Act (ESA) of 1973 requires protection of listed or proposed endangered or threatened species or critical habitats. Projects that can affect listed endangered or threatened species or critical habitats require consultation with the Department of Interior in compliance with the procedure of Section 7 of the ESA. Only for new construction and conversion activities does the ESA authority apply. Guidance at http://www.hud.gov/offices/cpd/environment/review/endangeredspecies.cfm	<u>Endangered Species Act:</u> Likely adverse effect on species or their habitat	Adverse effect on a species listed or proposed to be listed as Endangered or Threatened	<u>Biological Resources</u> - Threatened and endangered species - Anadromous species - Critical habitat - Species of special concern
Conformance with comprehensive plans and zoning	Conflict with existing or proposed land use plans?		<u>General Land Use</u> - Zoning - Land use classifications
	Adverse impacts on park lands, public lands, or areas of recognized scenic or recreational value?		<u>Formally Classified Lands</u> - State or national parks - Recreational areas <u>Historic Properties</u> Visually sensitive areas
	Violation of storm water or wastewater discharge permit during construction or operation?		<u>Water Quality</u> Discharge permits
<u>Sole Source Aquifers</u> [40 CFR Part 149] The Safe Drinking Water Act of 1974 requires protection of drinking water systems that are the sole or principal drinking water source for an area and which, if contaminated, would create a significant hazard to public health. Development, which can affect aquifers designated by the Environmental Protection Agency (EPA), must be reviewed for impact on such designated aquifer sources. Only for new construction and conversion activities does the sole source aquifer (SSA) authority apply. Guidance at http://www.hud.gov/offices/cpd/environment/review/aquifers.cfm	<u>Safe Drinking Water Act:</u> Impact to EPA designated sole source aquifer?		<u>Water Quality</u> Sole source aquifers
<u>Clean Air Act</u> [40 CFR Parts 6, 51, 93] The Clean Air Act (42 U.S.C. 7401 et seq.) prohibits federal assistance to projects that are not in conformance with the SIP. New construction and conversion, which are located in "non-attainment" or "maintenance" areas as determined by the EPA may need to be modified or mitigation measures developed and implemented to conform to the SIP. Guidance at http://www.hud.gov/offices/cpd/environment/review/cleanair.cfm	Adverse long-term effect on community air pollution?		<u>Air Quality</u> State Implementation Plan

HUD	IHS	USBR	USDA
<u>Environmental Justice</u> [Executive Order 12898] Executive Order 12898 - "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," applies in low-income or minority neighborhoods where the grantee proposes the acquisition of housing, the acquisition of land for development, and new construction. Environmental justice issues may include, but are not limited to new, continued or historically disproportionate potential for high and adverse human health and environmental effects on minority or low-income populations. Guidance at http://www.hud.gov/offices/cpd/environment/review/justice.cfm	Disproportionately high and adverse human and environmental impact on the Tribe, low-income populations, or minority populations?		<u>Socio-Economic/Environmental Justice</u> - Economic data - Location of minority and low-income populations
<u>Noise Abatement and Control</u> [24 CFR Part 51, Subpart B] The location of site and noise generators near sites which are noisy include major roads, railroads, industrial plants, etc. Guidance at http://www.hud.gov/offices/cpd/environment/review/noise.cfm	Adverse effect on community noise level?		<u>Noise</u> Noise levels/restrictions
	<u>Wilderness Act:</u> Adverse impact on a Wilderness Area?		<u>Formally Classified Lands</u> Wilderness Areas
<u>Coastal Zone Management Act</u> [16 U.S.C. 1451, §§ 307(c), (d)] Only for new construction, conversion, major rehabilitation, and substantial improvement activities does the Coastal Zone Management (CZM) authority apply. Projects that can affect the coastal zone must be carried out in a manner consistent with the approved State coastal zone management program under Sec. 307 of the Coastal Zone Management Act of 1972, as amended Guidance at http://www.hud.gov/offices/cpd/environment/review/coastal.cfm	<u>Coastal Zone Management (CZM) Act:</u> Direct effect on Coastal Zone in manner inconsistent with the State CZM Plan?		<u>Coastal resources</u> - Coastal barrier resource maps - CZM planning documents
		Effect on Indian Trust Assets (ITAs)? (To be completed by ITA coordinator) Consultation with Indian tribes is generally required when ITAs are affected.	<u>Formally Classified Lands</u> Reservations
Compatibility and urban impact	Action greater in scope than normal for the area, or with significantly unusual characteristics?		
	Construction of new municipal solid waste landfill?		
Will the proposal have significant effects on: - Solid waste? - Waste water? - Storm water? - Water supply? - Educational facilities? - Commercial facilities? - Health care? - Energy consumption? - Social services? - Public safety – police, fire, and emergency medical? - Open space and recreation? Transportation?	Create need for additional: - Solid waste disposal capacity? - Wastewater treatment? - Drinking water supply? - Health care facilities & services? - Energy supply & generation? - Educational facilities? - Transportation systems?		
Does the proposal have a significant effect on erosion, soil suitability and/or slope?	Need for major sedimentation and erosion control measures?		
	Substantially increase capacity of existing health care facility?		

HUD	IHS	USBR	USDA
	Action involves buildings over 12,000 square feet of useable space over more than 5 acres (new site)?		
	Action involves health care facilities for projects over more than 5 acres (new site)?		
	Property sale or transfer where hazardous substance was stored for >1year, known to have been released, or disposed of?		
	Violation of laws on the use, storage, transportation, disposal of hazardous wastes and medical wastes?		
		Involve unresolved conflicts concerning alternative uses of available resources?	
		Highly uncertain environmental effects or unique or unknown environmental risk?	
		Action related to other action actions with individually insignificant but cumulatively significant effects.	
			<u>Water Quality</u> Water appropriation permits
			<u>Transportation</u> • Airports • Highway safety • Navigation hazards
<u>Explosive and Flammable Operations</u> [24 CFR Part 51, Subpart C] Properties that are located near hazardous industrial operations handling fuels or chemicals of an explosive or flammable nature are subject to HUD safety standards (24 CFR 51, Subpart C). In the case of tanks containing common liquid fuels, the requirement for an acceptable separation distance (ASD) calculation only applies to storage tanks that have a capacity of more than 100 gallons. Guidance at http://www.hud.gov/offices/cpd/environment/review/explosive.cfm			
<u>Airport Clear Zones</u> 24 CFR Part 51, Subpart D] HUD policy applies to assisted properties located within Clear Zones (CZ) in the case of proposed new construction, major or substantial rehabilitation (as defined below) of an existing structure, and acquisition of undeveloped land. This HUD policy also applies to properties located within Accident Potential Zones (APZ). Guidance at http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/environment/review/qa/airport			

HUD	IHS	USBR	USDA
<u>Hazardous, Toxic or Radioactive Substances</u> [24 CFR Part 51, Subpart C] It is HUD policy, 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) HUD 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..." Sites known or suspected to be contaminated by toxic chemicals or radioactive materials include but are not limited to sites: (i) listed on an EPA Superfund National Priorities or CERCLA List, or equivalent State list; (ii) located within 3,000 feet of a toxic or solid waste landfill site; or (iii) with an underground storage tank. Guidance at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/environment/review/hazardous			

REFERENCES

Federal Regulations

- The National Environmental Policy Act of 1969, as amended
- 40 CFR Parts 1500 - 1508 Council on Environmental Quality - Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act
- Council on Environmental Quality, Collaboration in NEPA, A Handbook for NEPA Practitioners, October 2007

EPA

- 40 CFR Part 6 - Procedures for Implementing the National Environmental Policy Act and Assessing the Environmental Effects aboard of EPA Actions
- Policies and Procedures for the Review of Federal Actions Impacting the Environment (http://www.epa.gov/compliance/resources/policies/nepa/nepa_policies_procedures.pdf)
- EPA NEPA website (<http://epa.gov/compliance/nepa/index.html>)

HUD

- 24 CFR Part 50 - Protection and Enhancement of Environmental Quality
- 24 CFR Part 58 - Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities
- Environmental Review Process for IHBG, ICDBG and Section 184 Funded Activities
- Manual for HUD Staff to Conduct Environmental Review (<http://www.hud.gov/offices/cpd/environment/lawsandregs/compliance/forms/trngmanual/index.cfm>)
- HUD Environmental Review Process: <http://www.nls.gov/offices/cpd/affordablehousing/training/web/crosscutting/environmental/>
- ONAP Environmental Review Training Manual
- Suggested Format for Categorically Excluded Projects Subject to §58.5
- Environmental Assessment: Compliance Findings for the Related Laws and Environmental Program Factors- form HUD 4128

IHS

- Environmental Review Manual for Indian Health Service Programs, January 2007
- IHS NEPA Federal Register Notice. January 6, 1993, Vol. 58, No. 3. page 569

USBR

- National Environmental Policy Act Handbook, Public Review Draft, U.S. Department of the Interior, Bureau of Reclamation, 2000

Review of Infrastructure Task Force Agency Requirements for NEPA

This document is for internal agency use only, and is not legally binding. It does not replace any agency policy, regulation, or requirement, and should not be referred to for compliance purposes.

USDA

- 7 CFR 1794 - Environmental Policies and Procedures
- RUS Bulletin 1794A-602, Guide for Preparing the Environmental Report for Water and Environmental Program Proposals
- FEMA Form 81-93 - Standard Flood Hazard Determination Form (SFHDF), December 2008
- RD form 2006-38 - Rural Development Environmental Justice (EJ) and Civil Rights Impact Analysis (CRIA) Certification
- AD 1006 - USDA Farmland Conversion Impact Rating

APPENDICES

Appendix A - HUD Suggested Format for Categorically Excluded Projects subject to §58.5

Appendix B - IHS Checklist and Resources

Appendix C - USBR Categorical Exclusion Checklist

Appendix D - USDA Environmental Information Summary (for Environmental Report)

APPENDICES

APPENDIX A

HUD SUGGESTED FORMAT FOR CATEGORICALLY EXCLUDED
PROJECTS SUBJECT TO §58.5

Appendix A

Suggested Format for Categorically Excluded Projects subject to §58.5

PROJECT NAME and DESCRIPTION (Include all contemplated activities which are either geographically and/or functionally part of the project):

Location:

This project is determined to be Categorically Excluded according to: [Cite appropriate section(s) of the regulation]

DIRECTIONS - Once the review process for each compliance factor has been completed, the Statutory Checklist must then be filled out. Specifically, the RE must indicate whether the activity does or does not affect the resources under consideration. Consult the guidance provided in the table below or the web sites. Indicate **Status “A”** on the worksheet if the project does not require formal consultation with an outside agency and does not affect the resource in question. Document the determination made and the sources of information were used—information sources are provided in the guidance. If the activity triggers formal compliance consultation with the oversight agency or affects the resource, indicate **Status as “B”**. Any compliance documentation should also be attached to the Checklist and included in the ERR.

Compliance Factors:

Statutes, Executive Orders, and Regulations listed at 24 CFR §58.5	Status A/B	Compliance Documentation
Historic Preservation [36 CFR Part 800]	A	

Guidance: <http://www.hud.gov/offices/cpd/environment/review/historic.cfm>

Floodplain Management [Executive Order 11988; 24 CFR Part 55]	A	
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Guidance: <http://www.hud.gov/offices/cpd/environment/review/floodplain.cfm>

Wetland Protection [Executive Order 11990; 3 CFR, §§ 2, 5]	A	
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Guidance: <http://www.hud.gov/offices/cpd/environment/review/floodplain.cfm>

Appendix A

Coastal Zone Management Act [16 U.S.C. 1451, §§ 307(c), (d)]	A	
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Guidance: <http://www.hud.gov/offices/cpd/environment/review/coastal.cfm>

Statutes, Executive Orders, and Regulations listed at 24 CFR §58.5	Status A/B	Compliance Documentation
Sole Source Aquifers [40 CFR Part 149]	A	

Guidance: <http://www.hud.gov/offices/cpd/environment/review/aquifers.cfm>

Endangered Species Act [50 CFR Part 402]	A	
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Guidance: <http://www.hud.gov/offices/cpd/environment/review/endangeredspecies.cfm>

Wild and Scenic Rivers Act [16 U.S.C. 1271, §§ 7(b), (c)]	A	
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Guidance: <http://www.rivers.gov/wildriverslist.html>

Clean Air Act [40 CFR Parts 6, 51, 93]	A	
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Guidance: <http://www.hud.gov/offices/cpd/environment/review/cleanair.cfm>

Appendix A

Farmland Protection Policy Act [7 CFR Part 658]	A	
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Guidance: <http://www.hud.gov/offices/cpd/environment/review/farmlands.cfm>

Environmental Justice [Executive Order 12898]	A	
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Guidance: <http://www.hud.gov/offices/cpd/environment/review/justice.cfm>

Noise Abatement and Control [24 CFR Part 51, Subpart B]	A	
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Guidance: <http://www.hud.gov/offices/cpd/environment/review/noise.cfm>

Statutes, Executive Orders, and Regulations listed at 24 CFR §58.5	Status A/B	Compliance Documentation
Explosive and Flammable Operations [24 CFR Part 51, Subpart C]	A	

Guidance: <http://www.hud.gov/offices/cpd/environment/review/explosive.cfm>

Appendix A

Toxic Chemicals and Radioactive Materials [24CFR Part 58, § 5(i)(2)]	A	
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Guidance: <http://www.hud.gov/offices/cpd/environment/review/hazardous.cfm>

Airport Clear Zones and Accident Potential Zones [24 CFR Part 51, Subpart D]	A	
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Guidance: <http://www.hud.gov/offices/cpd/environment/review/airport.cfm>

DETERMINATION:

- ☐ This project converts to Exempt, per § 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 drawn down for this (now) EXEMPT project; OR
- ☐ This project cannot convert to Exempt because one or more statutes/authorities require consultation or mitigation. Complete consultation/mitigation requirements, publish NOI/RROF and obtain Authority to Use Grant Funds (HUD 7015.16) per §§ 58.70 and 58.71 before 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 the EA according to 24 CFR Part 58 Subpart E.

PREPARER SIGNATURE:

DATE:

APPENDIX B

IHS CHECKLIST AND RESOURCES

Appendix B

Indian Health Service

ENVIRONMENTAL INFORMATION AND DOCUMENTATION

Page 1 of 9

Tribe:	Reservation:
Project, Program, Grant Description & Location:	

Action includes purchasing, construction, alteration, renovation, or leasing activities, new and continuing activities, including projects and programs entirely or partly financed, assisted, conducted, regulated, or approved by the Indian Health Service.

Note: A “Yes” or “No” response is required for every question. Answer each item completely with adequate supporting information to justify your response.

Depending upon the context and intensity, any consideration listed below can result in an Environmental Assessment.

Consideration	<u>Will the proposed action/activity affect the Consideration?</u> Provide supporting information for your responses and explain any mitigations to be implemented.
1. Will the proposed action result in a known violation or continuance of a violation of applicable (Federal, Tribal, State or local) laws or requirements for protection of environment or public health and safety?	<u>Yes or No</u>
2. Will the proposed action result in a conflict with existing or proposed Federal, Tribal, state, and local land use plans?	<u>Yes or No</u>
3. Is there a controversy with respect to environmental effects of the proposed action based on reasonable and substantial issues?	<u>Yes or No</u>
4. Is the proposed action significantly greater in scope than normal for the area or does it have significant unusual characteristics?	<u>Yes or No</u>
5. Does the proposed action establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects?	<u>Yes or No</u>
6. Does the proposed action have significant adverse direct or indirect effects on park land, other public lands, or areas of recognized scenic or recreational value? (For example, consider how your activity will affect the view?)	<u>Yes or No</u>

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Indian Health Service

ENVIRONMENTAL INFORMATION AND DOCUMENTATION

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Tribe:	Reservation:
Project, Program, Grant Description & Location:	

Action includes purchasing, construction, alteration, renovation, or leasing activities, new and continuing activities, including projects and programs entirely or partly financed, assisted, conducted, regulated, or approved by the Indian Health Service.

Consideration	<u>Will the proposed action/activity affect the Consideration?</u> Provide supporting information for your responses and explain any mitigations to be implemented.
7. Does the proposed action include construction of a new municipal solid waste landfill at a new solid waste disposal site?	<u>Yes or No</u> If the answer is Yes, then an Environmental Assessment is needed.
8. Will the proposed action create a need for additional capacity at solid waste disposal facilities?	<u>Yes or No</u>
9. Does the proposed action include construction of a new wastewater treatment facility that will discharge treated sewage effluent to the waters of the U.S.?	<u>Yes or No</u> If the answer is Yes, then an Environmental Assessment is needed.
10. Will the proposed action create a need for additional capacity at wastewater treatment facilities?	<u>Yes or No</u>
11. Will the proposed action create a need for additional capacity in the drinking water supply?	<u>Yes or No</u>
12. Are there other considerations about the proposed action that could adversely affect the environment and/or public health and safety?	<u>Yes or No</u>
13. Will the proposed action create a need for additional capacity in health care facilities and for health care services?	<u>Yes or No</u>

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Indian Health Service

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Tribe:	Reservation:
Project, Program, Grant Description & Location:	

Action includes purchasing, construction, alteration, renovation, or leasing activities, new and continuing activities, including projects and programs entirely or partly financed, assisted, conducted, regulated, or approved by the Indian Health Service.

Consideration	<u>Will the proposed action/activity affect the Consideration?</u> Provide supporting information for your responses and explain any mitigations to be implemented.
14. Will the proposed action create a need for additional energy supply or generation?	<u>Yes or No</u>
15. Will the proposed action create a need for additional capacity in educational facilities?	<u>Yes or No</u>
16. Will the proposed action create a need for additional capacity in transportation systems?	<u>Yes or No</u>
17. <u>Historic Preservation:</u> a. Does the proposed action involve the purchase, construction, alteration, renovation, or lease of real property or portion of real property that is more that 50 years old?	<u>Yes or No</u>
b. Will the proposed action adversely affect properties listed, or eligible for listing, on the National Register of Historic Places? [Buildings, archaeological sites, National Historic Landmarks; objects of significance to a Tribe including graves, funerary objects, and traditional cultural properties. For assistance, consult with the State Historic Preservation Officer (SHPO) or the Tribal Historic Preservation Officer (THPO)]	<u>Yes or No</u> If the answer is Yes, then an Environmental Assessment is needed.

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Indian Health Service

ENVIRONMENTAL INFORMATION AND DOCUMENTATION

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Tribe:	Reservation:
Project, Program, Grant Description & Location:	

Action includes purchasing, construction, alteration, renovation, or leasing activities, new and continuing activities, including projects and programs entirely or partly financed, assisted, conducted, regulated, or approved by the Indian Health Service.

Consideration	<u>Will the proposed action/activity affect the Consideration?</u> Provide supporting information for your responses and explain any mitigations to be implemented.
18. <u>Endangered Species Act</u> : Is the proposed action likely to adversely affect a plant or animal species listed on the Federal or applicable state list of endangered or threatened species or a specific critical habitat of an endangered or threatened species? (Consult with Fish & Wildlife Service or NOAA Fisheries Service. Discovering an endangered or threatened species in the project area will stop the project, and the Endangered Species Act has significant fines and penalties for violations.)	<u>Yes or No</u> If the answer is Yes, then an Environmental Assessment is needed.
19. Will the proposed action require major sedimentation and erosion control measures? (Consider earth disturbing activities including construction or expansion of a parking lot.)	<u>Yes or No</u>
20. Will the proposed action violate a storm water permit or a wastewater discharge permit either for construction or on-going operations? (Earth disturbing activities may require a Notice of Intent (NOI) to be covered under a storm water general permit or individual permit from the EPA or other agency and a storm water control plan, including some parking lot construction activities. A discharge of wastewater to the environment may require a permit from Tribal, local or state authorities, or EPA.)	<u>Yes or No</u>
21. <u>Safe Drinking Water Act</u> : Will the proposed action impact an EPA designated sole source aquifer? (Designation of sole source aquifer puts restrictions and conditions on Federal expenditures, projects, and grants.)	<u>Yes or No</u>

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Indian Health Service

ENVIRONMENTAL INFORMATION AND DOCUMENTATION

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Tribe:	Reservation:
Project, Program, Grant Description & Location:	

Action includes purchasing, construction, alteration, renovation, or leasing activities, new and continuing activities, including projects and programs entirely or partly financed, assisted, conducted, regulated, or approved by the Indian Health Service.

Consideration	<u>Will the proposed action/activity affect the Consideration?</u> Provide supporting information for your responses and explain any mitigations to be implemented.
22. <u>Wetlands and Water Resources</u> (lakes, rivers, ponds, streams, etc.): Will the proposed action violate a Section 404 (Clean Water Act) permit for actions in a wetland and/or Section 10 (Rivers and Harbors Act) permit for actions in a stream or river? (Activities in or near a wetland or river may require a permit from the U.S. Army Corps of Engineers or U.S. Coast Guard. Includes: construction in or near any wet or dry waterway, stream crossings, intake structures, outfalls, etc.)	<u>Yes or No</u>
23. <u>Floodplains</u> : a. Is the proposed action located in either a 100-year or, for critical actions, a 500-year floodplain? (If Flood Insurance Rate Maps do not exist for the project site, a floodplain survey or consultation may be required. Also may need to consider if the facility will require flood insurance).	<u>Yes or No</u> If the answer is Yes, then an Environmental Assessment is needed (unless a class action review status can be established for the proposed action; document the class action determination).
b. Will the proposed action adversely impact flood flows in a floodplain or support development in a floodplain?	<u>Yes or No</u> If the answer is Yes, then an Environmental Assessment is needed.
24. Existing site: Would the proposed action, involving the purchase, construction or lease of new facilities (including portable facilities and trailers), substantially increase the capacity of an existing health care facility?	<u>Yes or No</u> If the answer is Yes , then an Environmental Assessment is needed.
25. New site: Does the proposed action involve purchase, construction, or lease of new facilities (including portable facilities and trailers) where such action is for buildings equal to or more than 12,000 square feet (1080 square meters) of useable space when more than 5 acres (2 hectares) of surface land area are involved at a new site ?	<u>Yes or No</u> If the answer is Yes, then an Environmental Assessment is needed.

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Indian Health Service

ENVIRONMENTAL INFORMATION AND DOCUMENTATION

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Tribe:	Reservation:
Project, Program, Grant Description & Location:	

Action includes purchasing, construction, alteration, renovation, or leasing activities, new and continuing activities, including projects and programs entirely or partly financed, assisted, conducted, regulated, or approved by the Indian Health Service.

Consideration	<u>Will the proposed action/activity affect the Consideration?</u> Provide supporting information for your responses and explain any mitigations to be implemented.
26. New site: Does the proposed action involve purchase, construction, or lease of health care facilities (other than buildings) for projects equal to or more than 5 acres (2 hectares) of surface land area at a new site ?	<u>Yes or No</u> If the answer is Yes, then an Environmental Assessment is needed.
27. Does the proposed action involve the sale or transfer of real property, on which any hazardous substance was stored for one year or more, known to have been released, or disposed of? (Provide relevant documentation for any hazardous substance releases. See 40 CFR 373.2(b), 302.4, and 261.30 for reportable quantities.)	<u>Yes or No</u>
28. Does the proposed action involve the sale or transfer of real property, on which underground or above ground storage tanks are located?	<u>Yes or No</u>
29. Will the proposed action violate Tribal, local, state, or Federal law on the use and storage of hazardous substances or the transportation, storage, and disposal of hazardous wastes or medical wastes? (Activities that may generate reportable quantities include air conditioning repair and service, pesticide application, motor pools, automobile repair, welding, landscaping, agricultural activities, print shops, hospitals, clinics, medical centers, etc. Repair, renovation, or demolition activities can generate waste that has asbestos-containing materials, asbestos, lead-based paint, PCBs, CFCs, etc.)	<u>Yes or No</u>
30. Will the proposed action adversely affect community air pollution for a long period of time? (Consider if your activity must conform to an applicable air quality implementation plan.)	<u>Yes or No</u>

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ENVIRONMENTAL INFORMATION AND DOCUMENTATION

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Tribe:	Reservation:
Project, Program, Grant Description & Location:	

Action includes purchasing, construction, alteration, renovation, or leasing activities, new and continuing activities, including projects and programs entirely or partly financed, assisted, conducted, regulated, or approved by the Indian Health Service.

Consideration	<u>Will the proposed action/activity affect the Consideration?</u> Provide supporting information for your responses and explain any mitigations to be implemented.
31. If the proposed action is implemented, will it have a disproportionately high and adverse human health or environmental impact on the Tribe, low-income populations, or minority populations?	<u>Yes or No</u> If the answer is Yes, then an Environmental Assessment is needed
32. Will the proposed action adversely affect community noise levels?	<u>Yes or No</u> If the answer is Yes, then an Environmental Assessment is needed
33. <u>Wilderness Act</u> : Will the proposed action adversely impact a Wilderness Area? (Wilderness Areas are specifically designated areas of land.)	<u>Yes or No</u> If the answer is Yes, then an Environmental Assessment is needed
34. <u>Farmland Protection Policy Act</u> : Will the proposed action convert significant agricultural lands to non-agricultural uses and exceed 160-point score on the farmland impact rating?	<u>Yes or No</u> If the answer is Yes, then an Environmental Assessment is needed
35. <u>Coastal Zone Management Act</u> : Will the proposed action directly affect a Coastal Zone in a manner inconsistent with the State Coastal Zone Management Plan? (All Federal programs or projects in the coastal zone must comply with the consistency provisions of the Act. Each coastal state should have a state office to manage its coastal zone development and use.)	<u>Yes or No</u> If the answer is Yes, then an Environmental Assessment is needed

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Tribe:	Reservation:
Project, Program, Grant Description & Location:	

Action includes purchasing, construction, alteration, renovation, or leasing activities, new and continuing activities, including projects and programs entirely or partly financed, assisted, conducted, regulated, or approved by the Indian Health Service.

Consideration	<u>Will the proposed action/activity affect the Consideration?</u> Provide supporting information for your responses and explain any mitigations to be implemented.
36. <u>Wild and Scenic Rivers Act</u> : Will the proposed action adversely affect a wild, scenic, or recreational river area or create conditions inconsistent with the character of the river? (A consideration for activities that are in or near any wild and scenic waterway including construction of stream/river crossings, intake structures, outfalls, etc.)	<u>Yes or No</u> If the answer is Yes, then an Environmental Assessment is needed

Based on the available record, the IHS has made the following determination on the proposed activity/action/undertaking. The record was examined to identify potential extraordinary or exceptional circumstances which would require further environmental review. (State if an Environmental Impact Statement or Environmental Assessment is needed, or which Categorical Exclusion applies to this activity/action/undertaking).

Appendix B

Indian Health Service

ENVIRONMENTAL INFORMATION AND DOCUMENTATION – Working Draft

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Tribe:	Reservation:
Project, Program, Grant Description & Location:	

I certify that to the best of my knowledge and ability the information presented herein is true and correct (enter appropriate information in the shaded blanks):

(1)		
Signature (Grantee or responsible, knowledgeable person who completed this document)	Title or Position (e.g., as appropriate, Tribal chair, utility director, diabetes coordinator, project/facility engineer, etc., or Federal official or officer, etc.)	Date
(2)		
Signature Service Unit Director/District Engineer	Title or Position (Service Unit Director, District Engineer)	
(3)		
Signature IHS Area Program Coordinator/Manager	Title or Position (e.g., as appropriate, IHS diabetes coordinator, facility manager/director, DSFC Director, etc.)	Date
(4)		
Signature Area NEPA Coordinator	AREA NEPA COORDINATOR	Date
(5)		
Signature, Associate Director, Area OEHE	ASSOCIATE DIRECTOR, AREA OEHE	Date
(6)		
Signature, Director, ES (as appropriate)	DIRECTOR, ENGINEERING SERVICES	Date

*Signatories may vary at the IHS Area. At minimum, signatures (1) through (4) are required, and signature (5) is required for all non-OEHE actions or activities

Appendix B

Information Resources Table for the IHS Environmental Review Checklist

Checklist Question	Topic	Review Manual Reference Section(s)	Suggested Information Resources	Refer to Categorical Exclusion(s) (I) or (J) OR Extraordinary or Exceptional Circumstance (K)*
1	Violation of Environmental Protection or Public Health and Safety Regulations	Section 1.0 (Part I)	- Applicable Federal Agencies - Tribal Agencies	K3
2	Conflict with Existing or Proposed Land Use Plans	Section 1.0 (Part I)	- Tribal Planning - Tribal EPA	
3	Controversy with Respect to Environmental Effects Based on Reasonable and Substantial Issues	Section 1.4 (Part I)	- Tribal Council - Tribal Administration - Public meetings	K3
4	Action Greater in Scope than Normal or with Significant Unusual Characteristics	Section 1.4 (Part I)	- Project Scope - Project Summary Document	K11
5	Precedent or Decision in Principle About Future Actions with Potentially Significant Environmental Effects	Section 1.4 (Part I)	Tribal Departments	K6
6	Adverse Effects on Park Land, Other Public Land, or Areas of Recognized Scenic or Recreational Value	Sections 13, 14	Tribal and Resource Agencies	K5
7	Construction of a New Municipal Solid Waste Landfill	Section 8.0	Project Documents	J1
8	Creating a Need for Additional Capacity at Existing Solid Waste Disposal Facilities	Section 8.0	- Tribal Solid Waste Department. - U.S. EPA	J2

* - Indicates the letter of the related item as listed in the Federal Register 58 (6 January 1993): 569-572.

Appendix B

Environmental Checklist Cross-Reference/Information Resources Table, cont'd

Checklist Question	Topic	Review Manual Reference Section(s)	Suggested Information Resources	Applicable Categorical Exclusion(s) OR Extraordinary or Exceptional Circumstance
9	Construction of a New Wastewater Treatment Facility	Section 3.0	• Tribal Planning • Tribal Utility	J2
10	Creating a Need for Additional Capacity at Existing Wastewater Treatment Facilities	Section 3.0	• Tribal Planning • Tribal Utility	
11	Creating a Need for Additional Capacity in the Drinking Water Supply	Section 3.0	• Tribal Planning • Tribal Utility	
12	Other Considerations That Could Adversely Affect the Environment and/or Public Health and Safety	Section 1.0 (Part I) Section 11	• Tribal Health Department • Applicable Federal Agencies	K1
13	Creating a Need for Additional Capacity in Health Care Facilities and for Health Care Services	Section 11	• Tribal Health Department • Tribal Clinic • IHS Health Facilities and Planning • Contact IHS for IHS owned or leased facilities	
14	Creating a Need for Additional Energy Supply or Generation	Section 11	• Tribal Utility • Local Electrical Utility	
15	Creating a Need for Additional Capacity in Educational Facilities	Section 11	• Tribal Planning • Tribal /BIA Education • County School District	
16	Creating a Need for Additional Capacity in Transportation	Section 11	• Tribal Planning • State DOT	

Appendix B

Environmental Checklist Cross-Reference/Information Resources Table, cont'd

Checklist Question	Topic	Review Manual Reference Section(s)	Suggested Information Resources	Applicable Categorical Exclusion(s) OR Extraordinary or Exceptional Circumstance
17a	Historic Preservation – Real Property More than 50 Years Old	Section 1.0	• Tribal Planning or Cultural Resources • State Historic Preservation Office • National Register of Historic Places	K5
17b	Historic Preservation – Properties Listed or Eligible for Listing on the National Register of Historic Places	Section 1.0	• Tribal Planning or Cultural Resources • State Historic Preservation Office • National Register of Historic Places	K7
18	Endangered Species Act	Section 2.0	• Tribal Fish and Game • U.S. Fish and Wildlife Service • NOAA Fisheries Service • State Fish and Game	K8
19	Sedimentation and Erosion Control Measures	Section 3.0	• Tribal Planning • U.S. EPA • U.S. Army Corps of Engineers	
20	Storm Water and NPDES Permitting	Section 3.0	• Tribal Utility • Tribal EPA and Planning • U.S. EPA	
21	Safe Drinking Water Act – Impact on an EPA Designated Sole Source Aquifer	Section 3.0	• Tribal Utility • Tribal Planning • U.S. EPA	K5
22	Wetlands and Water Resources	Section 3.0	• Tribal Planning • U.S. Fish and Wildlife Service • U.S. Army Corps of Engineers • FEMA	K9

Appendix B

Environmental Checklist Cross-Reference/Information Resources Table, cont'd

Checklist Question	Topic	Review Manual Reference Section(s)	Suggested Information Resources	Applicable Categorical Exclusion(s) OR Extraordinary or Exceptional Circumstance
23a, b	Floodplains	Section 4.0	• Tribal Planning • U.S. Geological Survey • U.S. Army Corps of Engineers • FEMA	K9
24	Purchase, Construction, Lease of New Facilities Substantially Increasing Capacity	Section 5.0	• Tribal Planning • Tribal Real Estate • Project Summary Document	I4a
25	Building Size Greater Than 12,000 Square Feet on More Than 5 Acres at a New Site	Section 5.0	• Tribal Planning • Tribal Real Estate • Project Summary Document	I4b
26	Projects Equal to or More Than 5 Acres of Surface Land Area at a New Site	Section 5.0	• Tribal Planning • Tribal Real Estate • Project Summary Document	I4b
27	Hazardous Substance Storage for One Year or More, Known to Have Been Released, Or Disposed Of	Section 9.0	• Tribal EPA • U.S. EPA	K10
28	Underground and Aboveground Storage Tanks	Section 7.0	• Tribal EPA • U.S. EPA	
29	Use, Storage, Transportation and Disposal of Hazardous Substances	Section 9.0	• Tribal EPA • U.S. EPA	K2
30	Impact on Community Air Pollution	Section 6.0	• Tribal EPA • U.S. EPA	K2

Appendix B

Environmental Checklist Cross-Reference/Information Resources Table, cont'd

Checklist Question	Topic	Review Manual Reference Section(s)	Suggested Information Resources	Applicable Categorical Exclusion(s) OR Extraordinary or Exceptional Circumstance
31	Human Health or Environmental Impact on Tribe and Low-Income or Minority Populations	Sections 10.0; 11.0	• Tribal Planning • U.S. EPA • U.S. DOJ	K2, K3
32	Community Noise Levels	Section 12.0	• Tribal Planning • Tribal EPA • U.S. EPA	
33	Wilderness Areas	Section 14.0	• Tribal Planning • Tribal Real Estate • U.S. Forest Service • National Park Service • U.S. EPA	K5
34	Farmland Protection	Section 15.0	• Tribal Planning • USDA NRCS	K5
35	Coastal Zone Management	Section 16.0	• Tribal Planning • State Coastal Management Agency	K5
36	Wild and Scenic Rivers	Section 17.0	• National Park Service • U.S. Army Corps of Engineers • Bureau of Land Management • Bureau of Indian Affairs • U.S. Forest Service	K5

APPENDIX C

USBR CATEGORICAL EXCLUSION CHECKLIST

Figure 5.1.—Example of a categorical exclusion checklist sheet.

CATEGORICAL EXCLUSION CHECKLIST (Continued)		
(9) This action or group of actions would involve unresolved conflicts concerning alternative uses of available resources.	No ☐ Uncertain ☐ Yes ☐	
(10) This action would have significant adverse effects on public health or safety.	No ☐ Uncertain ☐ Yes ☐	
(11) This action would have an adverse effect on unique geographical features such as wetlands, wild or scenic rivers, rivers in the nationwide inventory, refuges, floodplains, or prime or unique farmlands. (Same as Chapter 2, 516 DM-2, appendix 2, Part 2.2)	No ☐ Uncertain ☐ Yes ☐	
(12) The action will have highly controversial environmental effects.	No ☐ Uncertain ☐ Yes ☐	
(13) The action will have highly uncertain environmental effects or involve unique or unknown environmental risk.	No ☐ Uncertain ☐ Yes ☐	
(14) This action will establish a precedent for future actions.	No ☐ Uncertain ☐ Yes ☐	
(15) This action is related to other actions with individually insignificant but cumulatively significant effects.	No ☐ Uncertain ☐ Yes ☐	
(16) This action will adversely affect properties listed or eligible for listing in the National Register of Historic Places. (To be completed only by Regional Archeologist): _____ (initial)	No ☐ Uncertain ☐ Yes ☐	
(17) This action will adversely affect a species listed or proposed to be listed as Endangered or Threatened.	No ☐ Uncertain ☐ Yes ☐	

Sheet 2 of 3

Figure 5.1.—Example of a categorical exclusion checklist sheet (continued).

CATEGORICAL EXCLUSION CHECKLIST	
(Continued)	
(18) This action threatens to violate Federal, State, local, executive or Secretarial orders, or tribal law or requirements imposed for protection of the environment.	No ___ Uncertain ___ Yes ___
(19) This action will affect Indian Trust Assets (ITAs) (To be completed by ITA Coordinator: _____ (initial))	No ___ Uncertain ___ Yes ___
(20) NEPA ACTION RECOMMENDED:	CATEGORICAL EXCLUSION _____ EA _____ EIS _____
(21) ENVIRONMENTAL AND TRUST ASSET COMMITMENTS, EXPLANATION AND/OR REMARKS:	
(22) PREPARER'S NAME AND TITLE:	_____
(23) APPROVED: _____ Area Manager	DATE: _____

Revised: November 25, 1996
Sheet 3 of 3

Figure 5.1.—Example of a categorical exclusion checklist sheet (continued).

APPENDIX D

USDA ENVIRONMENTAL INFORMATION SUMMARY
(FOR ENVIRONMENTAL REPORT)

Appendix D

Environmental Information Summary				
Section	Environmental Resource	Primary Contact	Secondary Contact	Type of Information
3.1	Land Use			
3.1.1	General Land Use	Local/Regional/State Planning Agencies		Zoning, land use classifications
3.1.2	Important Farmland	NRCS	State Agencies	Soil surveys
3.1.3	Formally Classified Lands	NPS, BLM, USFS, BIA, State Agencies	USACE	Monuments, landmarks, wild and scenic rivers, wilderness areas, state or national parks, reservations, recreational areas
3.2	Floodplains	FEMA, State Floodplain Managers	Local Agencies, NRCS, USACE,	Flood insurance rate maps, soil surveys
3.3	Wetlands	NRCS, USACE	USFWS	Soil surveys, National Wetland Inventory maps, and Section 404 issues.
3.4	Historic Properties	SHPO, THPO	NPS, BLM, USFS, Local Or State Historical Groups.	Historic and archaeological sites. Visually sensitive areas. Traditional Cultural Properties
3.5	Biological Resources	USFWS, NMFS	State Agencies	Threatened and endangered species, anadromous species, critical habitats, species of special concern
3.6	Water Quality	State Water Quality Agencies, USEPA	USEPA	Discharge permits Water appropriation permits Sole source aquifers
3.7	Coastal Resources	State Coastal Management Program Offices or Agencies, USFWS	NOAA	Coastal barrier resource maps/ coastal zone management planning documents
3.8	Socio- Economic/ Environmental Justice	Census Bureau, Demographics, State/ Local Agencies	Local Civic Organizations	Economic Data, Location of minority and low-income populations
3.9	Miscellaneous Issues			
3.9.1	Air Quality	State Agencies	USEPA	State Implementation Plan
3.9.2	Transportation	FAA, State Highway Department	USDOT, Local/Regional/State Planning Agencies	Airports, highway safety, navigation hazards
3.9.3	Noise	Local/Regional/State Planning Agencies	USEPA, OSHA, FAA	Noise levels/restrictions