

TIER 3- SITE SPECIFIC REVIEW PROCESS AND FORM

City / County of Florence Housing Rehabilitation Program. Policies and Procedures for Site Specific Environmental Reviews

City / County of Florence has made the following decisions pertaining to future site specific environmental review projects:

NOTE: If the Tier 1 checklist identifies an “A” designation for any environmental standard (specialized topic area) and those standards are identified below, those standards can be deleted. If the Tier 1, checklist identifies a “B” designation for any environmental standard (specialized topic area), that environmental standard must be included in the review procedures / policy for the site specific Tier 2 reviews, below:

HISTORIC PROPERTIES

Projects will be evaluated on a case-by-case basis. For all projects older than 45 years, the City / County will consult with SHPO to determine if the unit is national register eligible or on the national register. The City / County of Florence will consider SHPO comments and comply with part 36 CFR Part 800 prior to approving any loan or grant under this program.

The City of Florence will notify Tribe(s) appropriate tribes (Coquille & Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians) in the event of significant findings. Note an Inadvertent Discovery Plan (IDP) to be implemented as needed during the project.

ENDANGERED SPECIES ACT

Projects will be evaluated on a case-by-case basis. Each project will be evaluated in accordance with the provided Guidance using the Procedure for Section 7 Determination Worksheet particularly where a project includes hazardous tree removal within a riparian area. Further consultation will be sought with NOAA and/or USFWS for any project that is not found to have “no effect”.

TOXIC CHEMICALS AND RADIOACTIVE MATERIALS

Projects will be evaluated on a case-by-case basis. If it is determined there are hazards that could affect the health and safety of occupants, the City / County of Florence has determined that mitigation of the affected adverse environmental conditions by removing, stabilizing or encapsulating the toxic substances in accordance with the requirements of the appropriate federal, state or local oversight agency will occur, or the project will not be funded-

FLOOD DISASTER PROTECTION ACT

Projects will be evaluated on a case-by-case basis. It must be determined whether a project is in a 100-year floodplain and source documentation identified by FEMA map panel number and date must be in the file. If a project is located in a 100-year floodplain, evidence must be provided that the homeowner has flood insurance. The City will not provide substantial improvement to homes located in the 100 year flood zone.

Project cannot proceed prior to City of Creswell notification that environmental review is complete (ROF issued by OBBD-IFA and the site specific review has been signed by the Responsible Entity's Certifying Officer).

Building Address:

Market Value of House:

Estimated Cost of Rehabilitation:

Rehabilitation will expand footprint of house: Yes No

HISTORIC PRESERVATION

1. The unit is less than 45 years old and does not include ground disturbance
 - Yes: STOP here. The Section 106 Historic Preservation review is complete.
 - Provide documentation to show the age of the building and confirmation that there is no ground disturbance. City determines no historic properties affected.
 - No: PROCEED to #2
2. Consult the State Historic Preservation Officer (SHPO) to determine if project is on or eligible for the National Historic Register. Check determination
 - No Historic Properties Affected
 - Provide letter documenting concurrence of determination from SHPO
 - Note: Appropriate Tribe(s) to be contacted in the event of significant finding – See Inadvertent Discovery Plan (IDP) outline below.
 - No Historic Properties Adversely Affected
 - Provide letter documenting concurrence of determination from SHPO
 - Provide conditions that will be placed on projectCondition(s):
 - Adverse Effect on Historic Properties (City will make determination with SHPO)
 - Provide letter documenting concurrence of determination from SHPO
 - Provide Memorandum of AgreementCondition(s):

ENDANGERED SPECIES

Complete Part A and Part B of the Procedure for Section 7 Determination Worksheet. In accordance to this guidance, is the project found to have an effect?

No. Stop here the project is in compliance with the requirement. Provide copy of the completed Procedure for Section 7 Determination Worksheet showing the "No Effect" determination.

Yes. Further Evaluation must be completed by way of consultation with either or both USFWS and NOAA.

Continue

After appropriate consultation with USFWS and/or NOAA, can the project be found in compliance to have No Effect?

Yes.

Provide correspondence with appropriate agency with the No Effect Determination.

No. The project is not in compliance and will not be funded.

TOXIC / HAZARDOUS / RADIOACTIVE MATERIALS, CONTAMINATION, CHEMICALS OR GASES (24 CFR 58.5(l)(2):

1. Is the property free of hazardous materials, contamination, toxic chemicals and gasses, and radioactive substances, where a hazard could affect the health and safety of occupants? (Special consideration should be given to properties that are located near toxic or solid waste landfill sites, underground storage tanks, or other areas known to contain toxic, hazardous, or radioactive substances.).

Yes. Stop here.

Provide documentation to evidence determination including inspection reports, pictures, and information from www.epa.gov/enviro/ or similar sites.

No. However the project will be conditioned on measures to mitigate the adverse environmental condition (e.g. shielding, removing or encapsulating the toxic substances) according to the requirements of the appropriate Federal, state or local oversight agency.

Provide documentation to show mitigation will address adverse environmental condition.

Provide condition(s) that will be placed on project:

Condition(s):

No. Project cannot be mitigated. PROJECT MUST BE REJECTED.

FLOOD INSURANCE

Is the project located in a FEMA designated floodway? (Repairs can be funded in floodplains, just not in floodways.) You can obtain FEMA FIRM (Flood Insurance Rate Maps) at <http://www.fema.gov/>

Yes. Stop here. Federal financial assistance cannot be used in a floodway. Project activity is not eligible.

No. Provide FIRM map and FIRM map panel number.

Type FIRM map and FIRM map panel number here

Continue

Is the project located in a FEMA designated 100 year floodplain? Visit this site for FIRM Maps: <http://www.fema.gov/>

No. Provide FIRM map and FIRM map panel number.

Type FIRM map and FIRM map panel number here

Yes. Project will have to maintain flood insurance on the property

Provide FIRM map and FIRM map panel number.

Type FIRM map and FIRM map panel number here

Attach copy of flood insurance declaration or condition project

Determination:

This project does not require any mitigation for compliance with any statutes or authorities. This project may now be initiated; OR

Approval of this project is conditioned on the following mitigation measures: These conditions must be included in project contracts or other legally binding documents. The project may be initiated subject to compliance with the conditions:

Conditions:

The project does not comply with the following policy and will not be funded:

INADVERTENT DISCOVERY

Where ancestral remains and/or archaeological objects are inadvertently discovered they must be treated in a sensitive and respectful manner by all parties involved. In accordance with the laws and the Inadvertent Discovery Plan (IDP), if previously unidentified archaeological materials or sites are discovered during the ground disturbing activities, the IDP will be implemented essentially following these steps:

1. The project in the immediate vicinity of the inadvertent discovery will stop immediately and the area will be secured and protected in accordance with the IDP.

2. Appropriate City Staff shall be notified immediately of the inadvertent discovery by telephone at which point the City shall, in accordance with the IDP, make contact with the appropriate authorities and notify a professional archaeologist.
3. The City will also notify the State Historic Preservation Office staff and Tribal Historic Preservation staff as identified in the IDP.
4. Work in the secured area shall not resume until the IDP has been carried out and are directed by authorities that work may resume.

Certifying Officer Signature:

Certifying Officer Name, Title:

Joe Henry, Mayor

Date:

OREGON SHPO CLEARANCE FORM

Do not use this form for ODOT or Federal Highway projects or to record archaeological sites

This form is for: **federal** cultural resource reviews (Section 106); **state** cultural resource reviews (ORS 358.653)

SECTION 1: PROPERTY INFORMATION

SHPO Case Number:

Resource Name:

Street Address:

City:

County:

Agency Project #

Project Name:

If there is not a street address, include the Township, Range, and Section, cross streets, or other address description

Owner: Private Local Gov State Gov Federal Gov Other: _____

Are there one or more buildings or structures? YES NO – If no, skip to Section 2 and append photo(s)

Is the property listed in the National Register of Historic Places? YES – Individually YES – In a district NO

Original Construction date: _____ Check box if date is estimated

Siding Type(s) and Material(s):

Window Type(s) and Material(s):

Has the property been physically altered? No Alterations Few Alterations Major / Many Alterations

SECTION 2: APPLICANT DETERMINATION OF ELIGIBILITY - Check the appropriate box

The purpose of this review is to avoid impacts to properties that are "eligible" (historic) or already listed in the National Register of Historic Places. Fully establishing historic significance can be very costly and time consuming. Therefore initial evaluations are based on age (50 years or greater) and integrity (historic appearance), which are the minimum qualifications for listing in the National Register. Additional documentation may be needed further in the process, but typically initial evaluations allow the review process to proceed expeditiously.

The property is considered **Eligible** at this time because it is already listed in the National Register **or**

- is at least 50 years old **and** retains its historic integrity (minimal alterations to key features)
- has potential significance (architectural or historical)

The property is considered **Not Eligible** at this time because it:

- is less than 50 years old **or** is 50 years or older but there have been major alterations to key features
- is known to have no significance, based on National Register-level documentation and evaluation

SECTION 3: APPLICANT DETERMINATION OF EFFECT - Check the appropriate box

The project has **NO EFFECT** on a property that is eligible or already listed in the National Register, either because there is no eligible property involved or the eligible property will not be impacted physically or visually.

The project will have a minor impact on a property that is eligible or already listed in the National Register, and therefore there is **NO ADVERSE EFFECT**. Minor impacts include replacement of some, but not all, siding, doors, or windows, etc.

The project will have a major impact on a property that is eligible or already listed in the National Register, therefore there is an **ADVERSE EFFECT**. Major impacts include full or partial demolition, complete residing, full window replacement, etc.

STATE HISTORIC PRESERVATION OFFICE COMMENTS – Official use only

Eligibility: Concur with the eligibility determination above.
 Do not concur with the eligibility determination above.

Effect: Concur with the effect determination above.
 Do not concur with the effect determination above.

RECEIVED STAMP

RLS	
ILS	

Signed: _____ Date: _____

CONTACT INFORMATION STAMP

Comments:

OREGON SHPO CLEARANCE FORM

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SECTION 4: PREVIOUS ALTERATIONS TO THE BUILDING OR STRUCTURE

Only complete this section for buildings that are 50 years old or older. Describe any alterations that have already occurred to the building, such as material replacement, including siding, windows, and doors; any additions, including garages; and any removal or addition of architectural details, such as brackets, columns, and trim. Provide estimated dates for the work. Attach additional pages as necessary.

SECTION 5: PROJECT DESCRIPTION

Describe what work is proposed, including what materials will be used and how they will be installed. Specifically identify what historic materials will be retained, restored, replaced, or covered. Include drawings, photos, cut sheets (product descriptions), additional sheets, and other materials as necessary. For vacant lots, please describe the intended use.

SECTION 6: FUNDING SOURCE

ARRA FCC FERC HUD ODOE USDARD USFS HPF
 Other: _____

SECTION 7: AGENCY CONTACT INFORMATION

Name of Organization Submitting the Project:

Project Contact Name and Title:

Street Address, City, Zip:

Phone:

Email:

Date of Submission:

SECTION 8: ATTACHMENTS

REQUIRED

3 – 4, color, 4 x 5 photographs of the subject property, digital or print.
One photo is sufficient for vacant property

AS NEEDED

Contact SHPO staff with questions

Project area map, for projects including more than one tax lot. (Required for HPF-funded projects). See instructions.

Additional drawings, reports, or other relevant materials

Continuation sheet for sections 4 or 5, or additional context to determine National Register Eligibility.

SHPO Mailing Address: Review and Compliance, Oregon SHPO, 725 Summer St. NE, Suite C, Salem, OR 97301
Documents meeting all aspects of the digital submission policy may be submitted by email to
ORSHPO.Clearance@oregon.gov

OREGON SHPO CLEARANCE FORM CONTINUATION SHEET

Do not use this form for ODOT, Federal Highway projects or to record archaeological sites

CONTINUATION SHEET

- *Include additional documentation for Section 4 or 5 as necessary. Attach maps, drawings, and reports as needed to illustrate current conditions and the planned project. If submitting this form by email, photos and maps may be inserted into continuation sheets.*
- *If completing a complete Determination of Eligibility (DOE) or Finding of Effect (FOE), use continuation sheets as necessary or include appendixes.*

OREGON SHPO CLEARANCE FORM INSTRUCTIONS

Do not use this form for ODOT, Federal Highway projects or to record archaeological sites

SECTION 1: PROPERTY INFORMATION:

- Include complete address and agency project number and name, if applicable.
- Check YES if there are any buildings on the site. Check NO if it is a vacant parcel (in which case it will be evaluated for archaeology and the potential impact on surrounding buildings only.)
- Check YES if your research (look on our website at <http://heritagedata.prd.state.or.us/historic/> and/or call your local planning office) shows the property is listed. Check NO if you find that it is not listed.
- Fill in the construction date. Check box if date is estimated.
- Describe the siding and window types and materials. Examples: double hung wood windows; vertical wood siding.
- Check to what degree the property has been altered. Ask yourself, would the original owner recognize the building, or have there been many changes that obscure the historic features?

SECTION 2: APPLICANT DETERMINATION OF ELIGIBILITY:

- Check the ELIGIBLE box if the building is listed (National Register OR Local landmarks register), has previously been evaluated as eligible, or is 50 years of age AND the majority of the exterior historic features are retained.
- Check the NOT ELIGIBLE box if the building is not yet 50 years old, or if in your opinion there have been many and/or major changes (e.g. additions, siding and/or window replacement, porch enclosures).
- Applicants who acknowledge that the property meets the minimum qualifications for listing in the National Register but choose to contest this determination must complete a Determination of Eligibility (DOE). The DOE must demonstrate that the property is not eligible for the National Register using the Criteria listed in National Register Bulletin 15, "How to Apply the National Register Criteria for Evaluation." The DOE may be submitted on continuation sheets or as a separate document.

SECTION 3: APPLICANT DETERMINATION OF EFFECT:

- Check the NO EFFECT box if the property is NOT ELIGIBLE for listing in the National Register or if the work will not replace or alter the appearance of any of the building's exterior features.
- Check the NO ADVERSE EFFECT box if the property is ELIGIBLE for listing or is already listed in the National Register and the work is visible (e.g. re-roofing with same materials, window or siding repair, adding a vent) but will not remove or obscure historic features.
- Check ADVERSE EFFECT if the property is ELIGIBLE or listed in the National Register and the work includes major changes, such as replacing the siding or windows.

SECTION 4: PREVIOUS ALTERATIONS

- List the changes that **already** occurred to the building, including siding, windows, doors, porches, additions including dormers, or if the property was moved. Include the approximate date of each alteration. The information can be provided in list format.

SECTION 5: PROJECT DESCRIPTION:

- Clearly describe what is being repaired or replaced, and how that work will be done. What materials and installation process are proposed? Include sufficient information (e.g. close-up photos, product specification sheets) so we can compare what exists with what is proposed. The information can be provided in list format.

SECTION 6: FUNDING SOURCE:

- Check the federal or state agency funding the project; or check "other" and fill in the agency name.

SECTION 7: AGENCY CONTACT INFORMATION:

- List the name of the organization submitting the Clearance Form

SECTION 8: ATTACHMENTS:

- Photos: Include photos of the entire building, especially the elevations that can be seen from the street. Include close-ups of features that will be impacted by the project.
- Additional Information: When applicable, include window specifications, plans or diagrams that illustrate pertinent existing conditions and/or proposed work
- Continuation sheets for additional Section 4 or 5 narrative or to append a formal Determination of Eligibility (DOE) or Finding of Effect (FOE). These materials may also be submitted as a separate document.
- A map with location of project clearly marked with latitude and longitude coordinates in decimal degree format to the 5th decimal point is REQUIRED for all projects funded with Historic Preservation Funds through the Certified Local Government Grant. A single point for projects encompassing less than 5 acres is sufficient.

OR SHPO SUBMITTAL FORM

RESPONSE REQUIRED IN ALL SECTIONS

WHY

This submittal is (Select One)

- the First Initiation of Consultation and no SHPO Case # exists
 a Response to SHPO Request for more information on existing SHPO Case # provided below
 New Information for review on existing SHPO Case # provided below
 Existing SHPO Case #

WHAT

Your Project Name

Your Project Number

Extremely Brief Project/Undertaking Description

WHERE

Project Location

County(s)

Street Address

City

OR Legal Description T/R/S

OR Long/Lat (decimal degrees to 4 decimal places)

Long

Lat

WHO RECEIVES CORRESPONDENCE FROM THE SHPO

If not the Formal Contact, the Working Project Contact is who the SHPO communicates with for more information about the project and/or submittal package

Formal Contact

Working Project Contact (cc'd on all correspondence to Formal Contact)

Name

Name

Org

Org

Address

Address

Address

Address

City/ST/Zip

City/St/Zip

Phone

Phone

Email

Email

HOW

Is there a federal nexus for the project (funding, permitting, licensing, etc.)?

Yes

No

Ownership of Project Land?

Private

Public

Both

Additional Comments (Optional)

SUBMITTED TO SHPO FOR

- Built Environment Review
 Archaeology Review
 Both Built and Archaeology Review

SUBMITTAL EMAIL ACCOUNT

ORSHPO.Clearance@oregon.gov

ADDITIONAL ATTACHMENTS (Select All that Apply & Attach Individually)

- Cover Letter
 Map(s) (Required for Archaeology if not included in a Report)
 Oregon SHPO Clearance Form (Built Environment)
 106 Documentation Form (Built Environment)
 Built Environment Only Report
 Archaeology Report INCLUDING State of Oregon Report Cover Sheet
 Combined Arch & Built Report INCLUDING State of Oregon Report Cover
 Sheet BLM or USFS Archaeology Site Record(s) # Individually Attached
 Spatial Data
 Other 1 (Name It)
 Other 2 (Name It)
 Other 3 (Name It)

Endangered Species Act Guidance for Oregon

Prepared in collaboration with the US Fish and Wildlife Service and NOAA Fisheries Service
Applies in Oregon only

General requirements	ESA Legislation	HUD Regulations
Section 7(a)(2) of the Endangered Species Act mandates that actions that are authorized, funded, or carried out by Federal agencies do not jeopardize the continued existence of plants and animals that are listed, or result in the adverse modification or destruction of designated critical habitat.	The Endangered Species Act of 1973; 16 U.S.C. 1531 et seq.	24 CFR 58.5(e) 24 CFR 50.4(e)

Purpose

The purpose of this guidance is to assist the U.S. Department of Housing and Urban Development (HUD) and their designated responsible entities who have assumed responsibility for environmental compliance to meet their duty to consult with the US Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration (NOAA) Fisheries Service (NOAA Fisheries) under Section 7(a)(2) of the Endangered Species Act (ESA). Users will be able to determine whether their development projects are likely to have “no effect” on ESA-listed species and critical habitats, and thus do not require any further coordination with, or approval from, the USFWS or NOAA Fisheries.

If you make a “no effect” decision for your project, please document the circumstances and reason for your decision in a memo to file for use if the decision is ever reviewed by another party. If you find that your action “may affect” an ESA-listed species or critical habitat, including a result of post-construction runoff, then you must contact USFWS, NOAA Fisheries, or both to determine whether the project can be modified to eliminate the possibility of an adverse effect. If the adverse effect cannot be eliminated, further consultation with USFWS and/or NOAA Fisheries will be required.

This guidance also includes links to additional resources that describe low-impact development (LID) practices, including many actions that HUD and responsible entities can use to avoid or minimize the adverse impacts of post-construction runoff. HUD or a responsible entity may still choose to complete an individual consultation when warranted by project-specific facts.

Definitions

- **Action Area** is all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action.
- **Built environment** means roofs and paved areas like parking, patios, trails, retaining walls, sidewalks, streets, and amenities that prevent infiltration of rainwater into the water table.
- **Candidate Species** are plant and animal taxa considered for possible addition to the List of Endangered and Threatened Species. These are taxa for which the USFWS and NOAA Fisheries have sufficient information on biological vulnerability and threat(s) to support issuance of a proposal to list, but issuance of a proposed rule is currently precluded by higher priority listing actions.
- **Critical Habitat** means those specific areas that have been designated by USFWS or NOAA Fisheries (in a rule-making in the *Federal Register*) as essential to the conservation of a listed species.
- **Impervious area** means artificial structures such as rooftops and pavements (e.g., driveways, parking lots, roads, sidewalks, trails) that are covered by impervious material like asphalt, brick, compacted soil, concrete, or stone.
- **Listed Species** means any species of fish, wildlife or plant that has been determined to be endangered or threatened under section 4 of the Endangered Species Act.

- **Low impact development (LID)** means management principles and practices that reduce post-construction runoff by infiltrating rainfall into the water table, evaporating rainwater back into the atmosphere after a storm, or finding beneficial uses for rainwater instead of exporting it from the site as a waste product.
- **Nexus** means any action that is funded, authorized or carried out by a Federal agency that may affect ESA-listed species or habitats.
- **Post-construction runoff** means runoff from the built environment that extends off-site after a project's construction is complete.
- **Proposed Species** any species of fish, wildlife or plant that has been proposed by USFWS or NOAA Fisheries in the *Federal Register* to be listed under section 4 of the Endangered Species Act.
- **Proximity** means areas or effects that occur near ESA-listed species or habitats in space or time, including areas where species roost, feed, nest, rear, overwinter, or migrate. NOAA Fisheries considers projects that discharge post-construction stormwater to be in proximity with ESA-listed species or habitats that occur downstream of the discharge site.
- **Responsible entity** means the party authorized by HUD under 24 CFR Part 58 to complete any environmental review necessary for HUD to obligate funds.
- **Riparian area** means vegetation, habitats, or ecosystems that are associated with bodies of water, typically within 150-feet of a stream bank or the shoreline of a standing body of water.
- **Take** under the ESA is defined as actions that may harass, harm, pursue, hunt, shoot, wound, kill trap, capture, or collect, or to attempt to engage in any such conduct. The ESA also protects against interfering in vital breeding and behavioral activities or degrading critical habitat.

Endangered Species Act Effects Determinations

Section 7 of the ESA requires all Federal agencies to insure that any action authorized, funded or carried out by the agency is not likely to jeopardize the continued existence of a listed species or destroy or adversely modify designated critical habitat. To this end, every project with a Federal nexus must be evaluated to determine its likely effect on listed and proposed species and designated critical habitat. HUD funding for a project serves as a Federal nexus triggering the requirement for environmental review under the ESA. HUD and Responsible Entities are also encouraged to consider candidate species in their evaluations.

- **No effect** means the proposed action will not have any direct or indirect effect on listed species or designated critical habitat.

No effect is the appropriate conclusion when the action agency determines its proposed action will not affect listed species or critical habitat. A determination of '*no effect*' must be supported in the environmental review record but does not require consultation with NOAA Fisheries or USFWS.

- **May affect** means the proposed action may have a direct or indirect effect on an ESA-listed species or critical habitat, including any habitat modification that alters water quality, physical habitat features, or other conditions that contribute to habitat value.

May affect, not likely to adversely affect is the appropriate conclusion when effects on listed species are expected to be **discountable**, or **insignificant**, or completely **beneficial**.

- **Discountable effects** are those extremely unlikely to occur. Based on best judgment, a person would not expect discountable effects to occur.
- **Insignificant effects** relate to the size of the impact and should never reach the scale where take occurs. Based on best judgment, a person would not be able to meaningfully measure, detect, or evaluate insignificant effects.

- **Beneficial effects** are contemporaneous positive effects without any adverse effects to the species.

A determination of '*not likely to adversely affect*' requires informal consultation with NOAA Fisheries or USFWS (or both); informal consultation results in a Letter of Concurrence from NOAA Fisheries or USFWS.

May affect, likely to adversely affect is the appropriate conclusion if any adverse effect to listed species may occur as a direct or indirect result of the proposed action or its interrelated or interdependent actions, and the effect is not discountable, insignificant, or beneficial. A determination of '*likely to adversely affect*' requires formal consultation under section 7 of the ESA; formal consultation results in a Biological Opinion from NOAA Fisheries or USFWS.

Background

An ESA effects analysis must consider both the direct and indirect effects of the action. Indirect effects are those that are caused by the proposed action and are later in time, but are still reasonably certain to occur. Few HUD actions occur within designated critical habitat, where direct injury or harm to ESA-listed species or critical habitat is easy to discern. But many HUD actions increase the area of the built environment, and thereby release post-construction runoff to the off-site environment. The indirect effects of post-construction runoff on the aquatic environment are the primary interaction between HUD actions and ESA-listed species and habitats.

One important indirect effect of post-construction runoff occurs when sediment and chemicals like oil, pesticides, and heavy metals accumulate on the built environment where they can be picked up by rainwater and transported into wetlands, lakes, and streams. Once there, those pollutants cause harm when they enter the food chain or otherwise degrade aquatic habitats. Other indirect effects occur when the built environment interrupts the natural cycle of rainwater infiltration into soil by diverting large volumes of post-construction runoff into drainage systems that quickly discharge into the nearest water body, where the effluent can cause erosion or downstream flooding that also harms ESA-listed species and habitats.

This guidance is based on the use of LID practices and principles that are simple, flexible, and economical to use, even in redevelopment situations. LID practices are highly effective for controlling stormwater impacts. Examples include use of permeable pavers, rain gardens, soil amendments, and tree retention to retain or recreate natural landscape features, reduce impervious cover, and increase on-site detention and infiltration.

Working Towards Recovery

The ESA requires all federal agencies to use their authorities to help conserve listed species. Therefore, as HUD-designated responsible entities, you are encouraged to minimize the effects of your actions on listed species, designated critical habitat and habitat identified in endangered species recovery plans. For your activities, you are especially encouraged to minimize your action's contribution to water quality degradation from point and non-point discharges, and water quantity alteration due to increased impervious surfaces.

Disclaimer: This document is intended as a tool to help grantees and HUD staff complete NEPA requirements. This document is subject to change. This is not a policy statement, and the Endangered Species Act and associated regulations take precedence over any information found in this document.

Questions concerning environmental requirements related to HUD programs can be addressed to Deborah Peavler-Stewart at (206) 220-5414 or Sara Jensen at (206) 220-5226.

Procedure for Section 7 Determination

You may use the guidance below to document compliance with the Endangered Species Act for HUD-funded projects in Oregon.

Part A: Consultation with NOAA Fisheries Service

Step 1: Obtain Species List & Determine Critical Habitat

For NOAA Fisheries species and designated or proposed critical habitat go to:

http://www.westcoast.fisheries.noaa.gov/maps_data/endangered_species_act_critical_habitat.html

http://www.nwr.noaa.gov/maps_data/species_population_boundaries.html

With a few exceptions on the Oregon Coast, most watersheds in the land area affected by ESA-listings of salmon and steelhead are within or upstream of a watershed occupied by an ESA-listed species or habitat.¹ NOAA Fisheries considers projects that discharge post-construction stormwater to be in proximity with ESA-listed species or habitats that occur downstream of the discharge site.

However, detailed distribution maps are available from recovery planning and implementation documents and the Salmon Population Summary (SPS) Database.² If you need to confirm whether your action is in proximity to ESA-listed salmon or steelhead, contact the appropriate office for NOAA Fisheries.³

Step 2: Determine Effect

Question 1: Would the project effects overlap with federally listed or proposed species and designated or proposed critical habitat covered by NOAA Fisheries?

Note that project effects include those that extend beyond the project site itself, such as noise, water quality, stormwater discharge, visual disturbance; habitat assessment must include consideration for feeding, spawning, rearing, overwintering sites, and migratory corridors.

NO, the project and all effects are outside the range of listed species and critical habitat covered by NOAA Fisheries.

- Record your determination of *No Effect* on species or habitats covered by NOAA Fisheries.
- Maintain documentation in your Environmental Review Record. For example, a map showing that your project is not in or upstream of a watershed of a listed species.
- Section 7 Consultation with USFWS may still be necessary. CONTINUE TO Part B.

YES, project effects may overlap with ESA-listed species or designated critical habitat covered by NOAA Fisheries.

¹ http://www.westcoast.fisheries.noaa.gov/publications/protected_species/salmon_steelhead/status_of_esal_salmon_listings_and_ch_designations_map.pdf

² <https://www.webapps.nwfsc.noaa.gov/apex/f?p=261:1:1530350968904#>

³ http://www.westcoast.fisheries.noaa.gov/about_us/our_locations.html

- Continue to Question 2.

Question 2: Is the project activity listed in Table A (see next page) and does it meet all of the required parameters?

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

- Record your determination of *No Effect* and maintain this documentation, including a species list and map of your project location, in your Environmental Review Record.
- Attach a statement to your determination explaining how your project meets the required parameters in Table A.
- Section 7 Consultation with USFWS may still be necessary. CONTINUE TO Part B.

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

- Continue to Question 3.

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

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

- Record your determination of *No Effect* and maintain this documentation, including a species list and map of your project location, in your Environmental Review Record.
- Attach the biological assessment or other professional documentation.
- Section 7 Consultation with USFWS may still be necessary. CONTINUE TO Part B.

NO, the project does not have professional documentation supporting a *No Effect* determination.

- YOU MUST INITIATE SECTION 7 CONSULTATION WITH NOAA Fisheries. Contact information on Page 8.
- Consultation with USFWS may also be necessary. CONTINUE TO PART B.

TABLE A.

Potential "No Effect" Activity	Required Parameters
Purchase building	No change to existing structures
Landscape repair, including adding sprinkler systems	<ul style="list-style-type: none"> • Does not remove trees or streamside vegetation
Interior rehabilitation	<ul style="list-style-type: none"> • For existing structures • Waste materials are recycled or otherwise disposed of in an EPA approved sanitary or hazardous waste disposal site
<p>Any exterior repair or improvement that will not increase post-construction runoff, e.g.</p> <ul style="list-style-type: none"> • Replace exterior paint or siding • Build a fence • Replace/repair roof without using bituminous waterproofing • Replace/repair a roof or siding without using galvanized metal • Reconstruct/repair existing curbs, sidewalks or other concrete structures <p>Repair existing parking lots (pot holes, repainting lines, etc.)</p>	<ul style="list-style-type: none"> • Does not increase amount of impervious surface • Waste materials are recycled or otherwise disposed of in an EPA approved sanitary or hazardous waste disposal site
<p>Special projects directed to the removal of material or architectural barriers that restrict the mobility of and accessibility to elderly and persons with disabilities, e.g.</p> <ul style="list-style-type: none"> • Curb cuts • Wheelchair ramps 	<p>Meets all of the following:</p> <ul style="list-style-type: none"> • Will not impact an area of natural habitat, a wetland, or riparian area; and • Complies with all state and local building codes and stormwater regulations
Install LID practices	<ul style="list-style-type: none"> • For existing structures
New construction or addition on previously developed site (for example a building over an existing parking lot)	<p>Meets all of the following:</p> <ul style="list-style-type: none"> • Does not increase amount of impervious surface • Waste materials are recycled or otherwise disposed of in an EPA approved sanitary or hazardous waste disposal site • Stormwater meets NOAA Fisheries standards.⁴
Project that will add new impervious surface that will increase post-construction runoff, including new construction.	<p>Meets all of the following:</p> <ul style="list-style-type: none"> • All post-construction runoff will be completely infiltrated or used on-site; and • Will not impact an area of natural habitat, a wetland, or riparian area; and • Complies with all state and local building codes and stormwater regulations

⁴ Refer to HUD Programmatic Opinion or contact NOAA Fisheries.

Part B: Consultation with U.S. Fish and Wildlife Service

Step 1: Obtain Species List & Determine Critical Habitat

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

Go to <http://ecos.fws.gov/ipac/> for a list of species by project area. Please note that this list includes listed, proposed *and* candidate species; consideration of project effects on candidate species is optional, unless effects are very large (contact the local USFWS field office in this case). However, candidate species may become listed as endangered or threatened species during the period of construction. If you have questions, contact the appropriate USFWS field office⁵ to discuss the species list for your area.

Step 2: Determine Effect

Question 1: Would the project effects overlap with federally-listed or proposed species or designated or proposed critical habitat covered by USFWS?

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

NO, the project and all effects are outside the range of listed or proposed species and designated critical habitat covered by USFWS. Therefore, the project will have *No Effect* on ESA-listed or proposed species or designated critical habitat.

- Record your determination of *No Effect* on species or habitats covered by USFWS, and maintain this documentation in your Environmental Review Record.
- Attach a statement explaining how you determined that your project's effects do not overlap with species or habitat covered by USFWS.

YES, project effects may overlap with ESA-listed or proposed species or designated critical habitat covered by USFWS. Therefore, your project could affect species and habitat.

- Continue to Question 2.

Question 2: Will the project occur on a previously developed site?

YES, the project will have *No Effect* on ESA-listed species or designated critical habitat.

- Record your determination of *No Effect* on species or habitats covered by USFWS, and maintain this documentation in your Environmental Review Record. Attach a statement explaining how you determined that your project's effects do not impact species or habitat covered by USFWS.

NO.

- Continue to Question 3.

⁵ <http://www.fws.gov/oregonfw/Administration/ContactUs/>

Question 3: Is the project activity listed in Table A and does it meet all of the required parameters?

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

- Record your determination of *No Effect* and maintain this documentation, including the official species list and map of your project location, in your Environmental Review Record.
- Attach a statement to your determination explaining how your project met the required parameters in Table A.

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

- Continue to Question 4.

Question 4: Do you have some other basis for a *No Effect* determination, for example a biological assessment or other documentation from a qualified professional?

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

- Record your determination of *No Effect* and maintain this documentation, including the official species list and map of your project location, in your Environmental Review Record. Attach the biological assessment or other professional documentation.

NO, the project does not have professional documentation for a *No Effect* determination and *may affect a listed species*. The project *may affect* listed or proposed species, or designated or proposed critical habitat. Consultation with the USFWS may be required.

- CONTACT THE USFWS TO DETERMINE THE APPROPRIATE EFFECTS DETERMINATION AND LEVEL OF CONSULTATION REQUIRED. Contact information on Page 9.

Initiating Section 7 Consultation

If the effects of the action are insignificant, discountable, or entirely beneficial, it is *not likely to adversely affect* listed or proposed species or designated critical habitats, and the section 7 consultation for the project may remain informal and relatively simple. A *May Affect, Not Likely to Adversely Affect* determination is the most common outcome of consultation for HUD-funded projects with USFWS.

However, if the effects of the action on listed or proposed species and/or critical habitat are not discountable, insignificant, or entirely beneficial, (i.e., *likely to adversely affect*), formal consultation must be initiated. In such cases, a formal consultation must be initiated prior to committing resources to the project, by which the USFWS and/or NOAA Fisheries assess the action's potential to jeopardize the listed species, to result in the destruction or adverse modification of critical habitat, or to result in incidental take of a listed species. Formal consultation will result in the USFWS and/or NOAA Fisheries issuing a Biological Opinion for the project, including an incidental take statement for project actions, if appropriate. The Biological Opinion will also include non-discretionary terms and conditions to further minimize and/or avoid project impacts to ESA-listed species. Because the constituents of stormwater runoff are particularly harmful to aquatic species, a *May Affect, Likely to Adversely Affect* determination is the most common outcome of consultation for HUD-funded projects with NOAA Fisheries.

At any stage in making your determination, you may wish to contact the appropriate USFWS and NOAA Fisheries field offices for technical assistance. Contact information is available at:

NOAA Fisheries Service
Portland Regional Office
1201 Northeast Lyon Blvd, Suite 1100
Portland, OR 97232
503-230-5400
<http://www.westcoast.fisheries.noaa.gov/index.html>

U.S. Fish and Wildlife Service
Oregon Fish and Wildlife Office
2600 SE 98th Avenue, Suite 100
Portland, OR 97266
503-231-6179
<http://www.fws.gov/oregonfwo/>

For projects located in the Klamath River Basin, you must contact NOAA's Northern California Office at:

NOAA Fisheries Service
Arcata Office
1655 Heindon Road
Arcata, CA 95521
707-825-5171

For a map of the Klamath River Basin, please visit:

http://www.westcoast.fisheries.noaa.gov/publications/gis_maps/maps/salmon_steelhead/esa/chinook/w eb_pdfs_uktr_chinook.pdf

Links to Section 7 Handbook and additional Section 7 resources:

- Section 7 Handbook: http://www.nmfs.noaa.gov/pr/pdfs/laws/esa_section7_handbook.pdf
- Overview of the Section 7 Process: <http://www.fws.gov/Midwest/endangered/section7/index.html>

Additional Resources for LID

- American Rivers, 2012, Banking on Green Report: Economic Benefits of Green Infrastructure Practices
- Clean Water Services, 2009, Low Impact Development Approaches (LIDA) Handbook
- ECONorthwest, 2009, LID at the Local Level - Developers' Experiences and City and County Support
- EPA, 2005, Low Impact Development for Big Box Retailers
- Herrera, 2013, Guidance Document: Western Washington LID Operation and Maintenance
- NCHRP, 2006, Evaluation of BMPs for Highway Runoff Control – LID Design Manual
- Prince George County, Maryland, 1999, Low-Impact Development Design Strategies
- Puget Sound Partnership, 2012, Low Impact Development: Technical Guidance Manual for Puget Sound
- US EPA, 2013, Stormwater to Street Trees: Engineering Urban Forests for Stormwater Management