

**LIHI Proposed Handbook Revision 2.06 Response to Comments in Comment Periods 1 and 2
October 2, 2024**

Handbook Section	Comment	LIHI Response
Comments in response to LIHI's proposal questions	I cannot state if they [the handbook changes] are sufficient to ensure that Tribal rights and interests are fully considered, but we agree with the changes because they are certainly better and provide a more comprehensive avenue for Tribal rights and interests to be served.	The proposed revisions were vetted by two Tribal Nation representatives and their input helped to inform the changes in the draft public review version with additional input on the final handbook revision.
	CRC agrees that changes to the definitions in Appendix A provide much needed clarity.	LIHI appreciates CRC's comments and support as we strive to improve the certification program.
	We did not notice areas that need additional clarity at this time.	
	The proposal positively impacts our confidence in the LIHI Certification program. We appreciate the changes provided to the Handbook during this iteration.	
	Thank you for your efforts to continually improve the LIHI Certification process.	
General Comment	I think that giving greater consideration to native American and tribal input in the certification and recertification process is a positive update to the LIHI certification process.	LIHI appreciates the comment and agrees that this is a positive enhancement to the program.
General Comment	In our region ... there is an ongoing conflict debating the legitimacy of native American groups between the federally recognized Nations and other local groups that are recognized by the State ... and affiliated groups [that may not be recognized by a State] ... I do not want to get involved in such a dispute or to be asked to determine which native American groups have legitimate standing to provide input on LIHI certifications... I trust that LIHI will develop a process to address such issues or conflict should they arise.	LIHI appreciates this concern and does not intend to insert the organization or applicants into such potential conflicts. We needed to draw a line somewhere and settled on tribes that are either federally or state-recognized (see Appendix A definition of Tribal Nation (Tribe). If there are unrecognized tribes, bands, or other tribal affiliated groups with an interest in the hydro facility, they are considered "interested parties" and their comments on applications will also be considered.

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General Comment	The Tribal issue is good to see addressed, but here in Maine, the tribes are much more concerned with ongoing sovereignty issues for that to make much of a difference.	LIHI remains sensitive to the larger issues and concerns of tribes in Maine and across the country, including the capacity of tribes to meaningfully participate in LIHI certification reviews. We continue to engage with tribal representatives to understand those issues and concerns and better incorporate them into the LIHI program.
2.1.1 and 2.2	The Handbook could require that formal recommendations for [dam] removal – either those made by agencies or Tribal Governments – result in additional [LIHI] Staff scrutiny of a project’s Application or Certification; however, Staff should be provided the flexibility to either validate such recommendations or to determine if LIHI Certification may be maintained.	LIHI acknowledges this concern. We have revised the language to read “If a resource agency or Tribal Nation has taken <u>formal action to put forward a proposal</u> for dam removal in an official, publicly available report or public proceeding, the hydroelectric facilities associated with that dam are not eligible for LIHI Certification”. This change clarifies that an entity recommending removal must initiate a formal action, not just make a general recommendation for removal. In addition, if this case arises, the Technical Committee of the LIHI Board will make a decision whether the formal action rises to a level that would preclude LIHI Certification at the initial application review stage.
3.22	Introduction to Standards: Suggest adding “established quantitative” to the following: “...jurisdictional resource agency or Tribal Nation’s established quantitative water quality standards.”. This addition is consistent with text in Standard B-3.	Omitting “quantitative” was purposeful since many state water quality standards include qualitative and/or narrative standards in addition to quantitative standards. However, “quantitative” is included in Standard B-3 since those parameters can be numerically measured via site-specific studies to determine if the standards are met.

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3.23 and 3.24	<p>Standard C-4 and D-4 [upstream/downstream fish passage Acceptable Mitigation):</p> <p>Comment 1: text states “In all cases, resource agencies and Tribal Nations must approve the measures...” What happens if a resource agency and/or Tribal Nation in a project area elect to not respond and provide input? The way this is written, the standard cannot be satisfied unless resource agencies and Tribal Nations provide approval.</p> <p>Comment 2: Not sure such approval is common. I haven’t seen it.</p>	<p>Standards C-4 and D-4 are intended for those few cases where lower numbered standards cannot be met by a facility. In LIHI’s experience, mitigation measures (onsite or offsite) are typically developed in consultation with and gain approval from resource agencies and/or Tribes during NEPA reviews or licensing or as a result of adaptive management programs. If a facility chooses to use those Standards to satisfy the LIHI criteria, then it is incumbent upon the facility to obtain agency and tribal approval for a mitigation measure.</p> <p>It is LIHI’s practice to assume that if a resource agency or Tribe elects to not provide input on specific issues in LIHI applications or the licensing and NEPA processes, that they do not have significant objections to the matter that would preclude use of these Standards C-4 or D-4.</p>
3.2.5	<p>Shoreline and Watershed Standard E-PLUS: “The buffer zone must include at least 50% of the undeveloped shoreline around the impoundment, <u>or the equivalent of the impoundment shoreline along the facility’s riverine zones</u>, or a combination of both.”</p> <p>So the downstream reach is included?</p>	<p>Yes, if there is a shoreline buffer along a bypassed reach or downstream reach it can be used to contribute to the 50% threshold for an equivalent buffer zone.</p>
3.28	<p>Recreation Standard H-Plus: Suggest adding “coexist with or” to the following: “Such new opportunities could include campgrounds, whitewater parks, boating access facilities, visitor centers, trails, or the like, as long as these opportunities coexist with or do not create unmitigated impacts to other resources.”</p>	<p>Rather than “coexist with” Section 3.28 and Table 10 in Appendix B have been changed to read such new recreational opportunities “<u>are compatible with</u>” and do not create unmitigated impacts to other resources.</p>

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4.4.1 and Appendix A	<p>Regarding impoundment Zone of Effect: Please explain the reasoning for including the new statement “For hydro facilities at dams not owned or controlled by the hydro owner/operator, the impoundment should still be included in the application as a ZoE.”</p> <p>It is unlikely that the hydro owner/operator has any control over the impoundment and associated ZoE. Such waters are outside the control of the hydro facility. The positives and negatives outside the facility’s control are impacting ability to certify. (Ex. USBR dam and reservoir). Does this condition apply to hydro projects located on a water conduit in which the impoundment ZoE could be miles upstream of project?</p>	<p>LIHI recognizes that the hydro owner/operator does not typically have full control over an impoundment/dam owned or operated by another entity (typically a state or federal agency), but we need to understand what the impacts might be especially if they also affect downstream reaches. LIHI does not hold a hydro operator responsible for operations beyond their control.</p> <p>There are many projects where the hydro owner does have some level of control (e.g., regarding flow volume/timing) which is generally codified in formal agreements between the hydro operator and the dam/impoundment owner/operator. LIHI considers the scope of those agreements in determining what control the hydro operator has and whether those operations satisfy the LIHI criteria and standards.</p>
Appendix A	<p>Definition of Base Flow: Who determines this? Rainfall runoff excluded?</p>	<p>US Geological Survey (USGS) stream gages typically provide information/graphs about both precipitation and flow which can be used to estimate base flow (e.g., the flow or gage height during periods of no precipitation).</p> <p>The definition of base flow has been revised to avoid confusion, as follows: “Base flow: <i>As used in this Handbook, base flow is water that enters a stream from persistent, slowly varying sources and which maintains streamflow between water-input events (Dingman, 2002).”</i></p> <p>With this citation added to Section 7, Literature cited: <i>Dingman, S. Lawrence. "Physical Hydrology. Long Grove, IL." (2002): 342-344.</i></p>

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Appendix A	Definition of Diversion: Suggest including “flowline” to the following: “A diversion channels a portion of a river through a canal, flowline, and/or penstock...”	LIHI agrees and this change was made.
Appendix A	Definition of Endemic Species: Where is this term used in the criteria?	The term was referenced in section 3.2.6, for Standard F-PLUS. However, it has been deleted from that section and Appendix A. To avoid confusion, this term has been replaced with “rare and special status” species (rare species typically refer to plants while special status species typically refer to wildlife).
Appendix A	Definition of Indigenous Knowledge: While we appreciate the efforts to include broader stakeholder input, the inclusion of Indigenous-Knowledge-based recommendations as tantamount to science-based recommendations may further limit the portfolio of projects that can achieve LIHI Certification.	LIHI recognizes that there are varying opinions about Indigenous Knowledge in relation to Western science. However, we feel strongly that knowledge based on documented indigenous history, practices, and experiences is equally valid to Western science and must be considered in LIHI application reviews.