

under their jurisdiction that are proposed to be conducted, supported, or permitted in a floodplain;

(2) Ensure that actions approved by HUD or grant recipients are monitored and that any prescribed mitigation is implemented;

(3) Ensure that the offices under their jurisdiction have the technical resources to implement the requirements of this part; and

(4) Incorporate in departmental regulations, handbooks, and project and site standards those criteria, standards, and procedures necessary to comply with the requirements of this part.

(c) *Recipient Certifying Officer.* In accordance with section 9 of Executive Order 11988, Certifying Officers of grant recipients administering activities subject to 24 CFR part 58 shall: (1) Comply with this part in carrying out HUD-assisted programs, and

(2) Monitor approved actions and ensure that any prescribed mitigation is implemented.

Subpart B—Application of Executive Order on Floodplain Management

§ 55.10 Environmental review procedures under 24 CFR parts 50 and 58.

(a) Where an environmental review is required under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332, and 24 CFR part 50 or part 58, compliance with this part shall be completed before the completion of an environmental assessment (EA) including a finding of no significant environmental impact (FONSI), or an environmental impact statement (EIS), in accordance with the decision points list-

ed in 24 CFR 50.17 (a) through (h), or before the preparation of an EA under 24 CFR 58.40 or an EIS under 24 CFR 58.36. For types of proposed actions that are categorically excluded from National Environmental Policy Act (NEPA) requirements under 24 CFR part 50 (or part 58), compliance with this part shall be completed before the Department's initial (SAMA, conditional, etc.) approval (or the conditional commitment or approval by a grant recipient subject to 24 CFR part 58) of proposed actions in a floodplain.

(b) The categorical exclusion of certain proposed actions from environmental review requirements under NEPA and 24 CFR parts 50 and 58 (see 24 CFR 50.20 and 58.35) does not exclude those actions from compliance with this part.

§ 55.11 Applicability of subpart C decision making process.

(a) Before reaching the decision points described in § 55.10(a), HUD (for Department-administered programs) or the grant recipient (for HUD financial assistance subject to 24 CFR part 58) shall determine whether Executive Order 11988 and this part apply to the proposed action.

(b) If Executive Order 11988 applies, the approval of a proposed action or initial commitment shall be made in accordance with this part. The primary purpose of Executive Order 11988 is to "avoid direct or indirect support of floodplain development."

(c) The following table indicates the applicability, by location and type of action, of the decision making process for implementing Executive Order 11988 under subpart C of this part.

TABLE 1

Type of proposed action (new reviewable action or an amendment)	Type of proposed location			
	Floodways	Coastal high hazard areas	100-year floodplain outside high hazard area	Area between 100- and 500-year floodplain
Critical actions as defined in § 55.2(b)(2).	Critical actions not allowed.	Critical actions not allowed.	Allowed if the proposed critical action is processed under § 55.20 ¹ .	Allowed if the proposed critical action is processed under § 55.20 ¹ .

TABLE 1—Continued

Type of proposed action (new reviewable action or an amendment)	Type of proposed location			
	Floodways	Coastal high hazard areas	100-year floodplain outside high hazard area	Area between 100- and 500-year floodplain
Non-critical actions not excluded under § 55.12 (b) or (c).	Allowed only if the proposed action is a functionally dependent use and processed under § 55.20 ¹ .	Allowed only if the proposed action: (1) is either (a) designed for location in a coastal high hazard area or (b) a functionally dependent use; and (2) is processed under § 55.20 ¹ .	Allowed if the proposed action is processed under § 55.20 ¹ .	Any non-critical action is allowed without processing under this part.

¹ Or those paragraphs of § 55.20 that are applicable to an action listed in § 55.12(a).

§ 55.12 Inapplicability of 24 CFR part 55 to certain categories of proposed actions.

(a) The decision making steps in § 55.20 (b), (c) and (g) (steps 2, 3 and 7) shall not apply to the following categories of proposed actions: (1) HUD actions involving the disposition of HUD-acquired multifamily housing projects or “bulk sales” of HUD-acquired one- to four-family properties in communities that are in the Regular Program of the National Flood Insurance Program (NFIP) and in good standing (*i.e.*, not suspended from program eligibility or placed on probation under 44 CFR 59.24).

(2) HUD’s actions under section 223(f) of the National Housing Act (12 U.S.C. 1715n(f)) for the purchase or refinancing of existing multifamily housing projects (including hospitals, nursing homes, board and care facilities, and intermediate care facilities) in communities that are in good standing under the NFIP.

(3) HUD mortgage insurance actions for the repair, rehabilitation, modernization or improvement of existing multifamily housing projects (including nursing homes, board and care facilities and intermediate care facilities) and existing one- to four-family properties, in communities that are in the Regular Program of the NFIP and are in good standing, provided that the number of units is not increased more than 20 percent, the action does not involve a conversion from nonresidential to residential land use, and the footprint of the structure and paved areas is not significantly increased.

(b) The decision making process in § 55.20 shall not apply to the following categories of proposed actions: (1) HUD’s mortgage insurance actions and other financial assistance for the purchasing, mortgaging or refinancing of existing one- to four-family properties in communities that are in the Regular Program of the National Flood Insurance Program (NFIP) and in good standing (*i.e.*, not suspended from program eligibility or placed on probation under 44 CFR 59.24), where the action is not a critical action and the property is not located in a floodway or coastal high hazard area;

(2) Financial assistance for minor repairs or improvements on one- to four-family properties that do not meet the thresholds for “substantial improvement” under § 55.2(b)(8);

(3) HUD actions involving the disposition of individual HUD-acquired, one- to four-family properties; and

(4) HUD guarantees under the Loan Guarantee Recovery Fund Program (24 CFR part 573) of loans that refinance existing loans and mortgages, where any new construction or rehabilitation financed by the existing loan or mortgage has been completed prior to the filing of an application under the program, and the refinancing will not allow further construction or rehabilitation, nor result in any physical impacts or changes except for routine maintenance.

(c) This part shall not apply to the following categories of proposed HUD actions:

(1) HUD-assisted exempt activities described in 24 CFR 58.34;