

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;

(2) Policy level actions described at 24 CFR 50.16 that do not involve site-based decisions;

(3) HUD's implementation of the full disclosure and other registration requirements of the Interstate Land Sales Disclosure Act (15 U.S.C. 1701–1720);

(4) An action involving a repossession, receivership, foreclosure, or similar acquisition of property to protect or enforce HUD's financial interests under previously approved loans, grants, mortgage insurance, or other HUD assistance;

(5) A minor amendment to a previously approved action with no additional adverse impact on or from a floodplain;

(6) HUD's approval of a project site, an incidental portion of which is situated in an adjacent floodplain, but only if: (i) The proposed construction and landscaping activities (except for minor grubbing, clearing of debris, pruning, sodding, seeding, etc.) do not occupy or modify the 100-year floodplain or the 500-year floodplain (for Critical Actions);

(ii) Appropriate provision is made for site drainage; and

(iii) A covenant or comparable restriction is placed on the property's continued use to preserve the floodplain;

(7) An action for interim assistance, assistance under the section 232(i) Fire Safety Equipment Loan Insurance Program, or emergency activities involving imminent threats to health and safety, and limited to necessary protection, repair or restoration activities to control the imminent risk or damage;

(8) HUD's approval of financial assistance for a project on any site in a floodplain for which FEMA has issued:

(i) A final Letter of Map Amendment (LOMA) or final Letter of Map Revision (LOMR) that removed the property from a FEMA-designated floodplain location; or

(ii) A conditional LOMA or conditional LOMR if the HUD approval is subject to the requirements and conditions of the conditional LOMA or conditional LOMR;

(9) HUD's acceptance of a housing subdivision approval action by the Department of Veterans Affairs or Farm-

ers Home Administration in accordance with section 535 of the Housing Act of 1949 (42 U.S.C. 1490o);

(10) An action that was, on May 23, 1994, already approved by HUD (or a grant recipient subject to 24 CFR part 58) and is being implemented (unless approval is requested for a new reviewable action), provided that §§ 55.21 and 55.22 apply where the covered transactions under those sections have not yet occurred, and that any hazard minimization measures required by HUD (or a grant recipient subject to 24 CFR part 58) under its implementation of Executive Order 11988 before May 23, 1994 shall be completed;

(11) Issuance or use of Housing Vouchers, Certificates under the Section 8 Existing Housing Program, or other forms of rental subsidy where HUD, the awarding community, or the public housing agency that administers the contract awards rental subsidies that are not project-based (*i.e.*, do not involve site-specific subsidies); and

(12) Secondary mortgage operations of the Government National Mortgage Association (GNMA).

[59 FR 19107, Apr. 21, 1994, as amended at 59 FR 33199, June 28, 1994; 62 FR 15802, Apr. 2, 1997]

Subpart C—Procedures for Making Determinations on Floodplain Management

§ 55.20 Decision making process.

The decision making process for compliance with this part contains eight steps, including public notices and an examination of practicable alternatives. The steps to be followed in the decision making process are:

(a) *Step 1.* Determine whether the proposed action is located in a 100-year floodplain (or a 500-year floodplain for a Critical Action). If the proposed action would not be conducted in one of those locations, then no further compliance with this part is required.

(b) *Step 2.* Notify the public at the earliest possible time of a proposal to consider an action in a floodplain (or in the 500-year floodplain for a Critical Action), and involve the affected and interested public in the decision making process.