

## § 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.

(1) The public notices required by paragraphs (b) and (g) of this section may be combined with other project notices wherever appropriate. Notices required under this part must be bilingual if the affected public is largely non-English speaking. In addition, all notices must be published in an appropriate local printed news medium, and must be sent to federal, state, and local public agencies, organizations, and, where not otherwise covered, individuals known to be interested in the proposed action.

(2) A minimum of 15 calendar days shall be allowed for comment on the public notice.

(3) A notice under this paragraph shall state: the name, proposed location and description of the activity; the total number of acres of floodplain involved; and the HUD official and phone number to contact for information. The notice shall indicate the hours and the HUD office at which a full description of the proposed action may be reviewed.

(c) Step 3. Identify and evaluate practicable alternatives to locating the proposed action in a floodplain (or the 500-year floodplain for a Critical Action).

(1) The consideration of practicable alternatives to the proposed site or method may include:

(i) Locations outside the floodplain (or 500-year floodplain for a Critical Action);

(ii) Alternative methods to serve the identical project objective; and

(iii) A determination not to approve any action.

(2) In reviewing practicable alternatives, the Department or a grant recipient subject to 24 CFR part 58 shall consider feasible technological alternatives, hazard reduction methods and related mitigation costs, and environmental impacts.

(d) Step 4. Identify the potential direct and indirect impacts associated with the occupancy or modification of the floodplain (or 500-year floodplain for a Critical Action).

(e) Step 5. Where practicable, design or modify the proposed action to minimize the potential adverse impacts within the floodplain (including the 500-year floodplain for a Critical Action) and to restore and preserve its natural and beneficial values. All critical actions in the 500-year floodplain shall be designed and built at or above the 100-year floodplain (in the case of new construction) and modified to include:

(1) Preparation of and participation in an early warning system;

(2) An emergency evacuation and relocation plan;

(3) Identification of evacuation route(s) out of the 500-year floodplain; and

(4) Identification marks of past or estimated flood levels on all structures.

(f) Step 6. Reevaluate the proposed action to determine:

(1) Whether it is still practicable in light of its exposure to flood hazards in the floodplain, the extent to which it will aggravate the current hazards to other floodplains, and its potential to disrupt floodplain values; and

(2) Whether alternatives preliminarily rejected at Step 3 (paragraph (c)) of this section are practicable in light of the information gained in Steps 4 and 5 (paragraphs (d) and (e)) of this section.

(g) Step 7.

(1) If the reevaluation results in a determination that there is no practicable alternative to locating the proposal in the floodplain (or the 500-year floodplain for a Critical Action), publish a final notice that includes:

(i) The reasons why the proposal must be located in the floodplain;

(ii) A list of the alternatives considered; and

(iii) All mitigation measures to be taken to minimize adverse impacts and to restore and preserve natural and beneficial values.

(2) In addition, the public notice procedures of §55.20(b)(1) shall be followed, and a minimum of 7 calendar days for public comment before approval of the proposed action shall be provided.

(h) Step 8. Upon completion of the decision making process in Steps 1 through 7, implement the proposed action. There is a continuing responsibility to ensure that the mitigating measures identified in Step 7 are implemented.