

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

- (a) The decisionmaking steps in [§ 55.20\(b\)](#), (c), and (g) (steps 2, 3, and 7) do not apply to the following categories of proposed actions:
- (1) HUD's or the recipient's actions involving the disposition of acquired multifamily housing projects or “bulk sales” of HUD-acquired (or under part 58 of recipients') one- to four-family properties in communities that are in the Regular Program of National Flood Insurance Program and in good standing (i.e., not suspended from program eligibility or placed on probation under [44 CFR 59.24](#)). For programs subject to part 58, this paragraph applies only to recipients' disposition activities that are subject to review under part 58.
 - (2) HUD's actions under the [National Housing Act \(12 U.S.C. 1701\)](#) for the purchase or refinancing of existing multifamily housing projects, hospitals, nursing homes, assisted living facilities, board and care facilities, and intermediate care facilities, in communities that are in good standing under the NFIP.
 - (3) HUD's or the recipient's actions under any HUD program involving the repair, rehabilitation, modernization, weatherization, or improvement of existing multifamily housing projects, hospitals, nursing homes, assisted living facilities, board and care facilities, intermediate care facilities, and one- to four-family properties, in communities that are in the Regular Program of the National Flood Insurance Program (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, the action does not meet the thresholds for “substantial improvement” under [§ 55.2\(b\)\(10\)](#), and the footprint of the structure and paved areas is not significantly increased.
 - (4) HUD's or the recipient's actions under any HUD program involving the repair, rehabilitation, modernization, weatherization, or improvement of existing nonresidential buildings and structures, in communities that are in the Regular Program of the NFIP and are in good standing, provided that the action does not meet the thresholds for “substantial improvement” under [§ 55.2\(b\)\(10\)](#) and that the footprint of the structure and paved areas is not significantly increased.
- (b) The decisionmaking 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 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\(b\)\(10\)](#);
 - (3) HUD or a recipient's actions involving the disposition of individual HUD-acquired, one- to four-family properties;
 - (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; and

- (5) The approval of financial assistance to lease an existing structure located within the floodplain, but only if;

 - (i) The structure is located outside the [floodway](#) or [Coastal High Hazard Area](#), and is in a community that is in the Regular Program of the NFIP and in good standing (i.e., not suspended from program eligibility or placed on probation under [44 CFR 59.24](#));
 - (ii) The project is not a [critical action](#); and
 - (iii) The entire structure is or will be fully insured or insured to the maximum under the NFIP for at least the term of the lease.
- (c) This part shall not apply to the following categories of proposed HUD actions:

 - (1) HUD-assisted activities described in [24 CFR 58.34](#) and [58.35\(b\)](#);
 - (2) HUD-assisted activities described in [24 CFR 50.19](#), except as otherwise indicated in § 50.19;
 - (3) The approval of financial assistance for restoring and preserving the natural and beneficial functions and values of floodplains and [wetlands](#), including through acquisition of such floodplain and wetland property, but only if:

 - (i) The property is cleared of all existing structures and related improvements;
 - (ii) The property is dedicated for permanent use for flood control, wetland protection, park land, or open space; and
 - (iii) A permanent covenant or comparable restriction is placed on the property's continued use to preserve the floodplain or wetland from future development.
 - (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) Policy-level actions described at [24 CFR 50.16](#) that do not involve site-based decisions;
 - (6) A minor amendment to a previously approved action with no additional adverse impact on or from a floodplain or wetland;
 - (7) HUD's or the responsible entity's approval of a project site, an incidental portion of which is situated in an adjacent floodplain, including the [floodway](#) or [Coastal High Hazard Area](#), or wetland, but only if:

 - (i) The proposed construction and landscaping activities (except for minor grubbing, clearing of debris, pruning, sodding, seeding, or other similar activities) do not occupy or modify the 100-year floodplain (or the 500-year floodplain for critical actions) or the wetland;
 - (ii) Appropriate provision is made for site drainage that would not have an adverse effect on the wetland; and
 - (iii) A permanent covenant or comparable restriction is placed on the property's continued use to preserve the floodplain or wetland;
 - (8) HUD's or the responsible entity's approval of financial assistance for a project on any nonwetland site in a floodplain for which FEMA has issued:

- (i) A final Letter of Map Amendment (LOMA), final Letter of Map Revision (LOMR), or final Letter of Map Revision Based on Fill (LOMR-F) that removed the property from a FEMA-designated floodplain location; or
 - (ii) A conditional LOMA, conditional LOMR, or conditional LOMR-F if HUD or the responsible entity's approval is subject to the requirements and conditions of the conditional LOMA or conditional LOMR;
- (9) 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);
- (10) Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and persons with disabilities;
- (11) The approval of financial assistance for acquisition, leasing, construction, rehabilitation, repair, maintenance, or operation of ships and other waterborne vessels that will be used for transportation or cruises and will not be permanently moored.

[[78 FR 68731](#), Nov. 15, 2013; [78 FR 74009](#), Dec. 10, 2013]