Office of the Secretary, HUD

§ 55.22

(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.

§ 55.21 Notification of floodplain hazard.

For HUD programs under which a financial transaction for a property located in a floodplain (a 500-year floodplain for a Critical Action) is guaranteed, approved, regulated or insured, any private party participating in the transaction and any current or prospective tenant shall be informed by HUD (or by HUD’s designee, e.g., a mortgagor) or a grant recipient subject to 24 CFR part 58 of the hazards of the floodplain location before the execution of documents completing the transaction.

§ 55.22 Conveyance restrictions for the disposition of multifamily real property.

(a) In the disposition (including leasing) of multifamily properties acquired by HUD that are located in a floodplain (a 500-year floodplain for a Critical Action), the documents used for the conveyance must: (1) Refer to those uses that are restricted under identified federal, state, or local floodplain regulations; and

(2) Include any land use restrictions limiting the use of the property by a grantee or purchaser and any successors under state or local laws.
(b)(1) For disposition of multifamily properties acquired by HUD that are located in a 500-year floodplain and contain Critical Actions, HUD shall, as a condition of approval of the disposition, require by covenant or comparable restriction on the property's use that the property owner and successive owners provide written notification to each current and prospective tenant concerning: (i) The hazards to life and to property for those persons who reside or work in a structure located within the 500-year floodplain, and (ii) The availability of flood insurance on the contents of their dwelling unit or business.

(2) The notice shall also be posted in the building so that it will be legible at all times and easily visible to all persons entering or using the building.

[59 FR 19107, Apr. 21, 1994, as amended at 59 FR 33199, June 28, 1994]

§ 55.23 [Reserved]

§ 55.24 Aggregation.

Where two or more actions have been proposed, require compliance with subpart C of this part, affect the same floodplain, and are currently under review by the Department (or by a grant recipient subject to 24 CFR part 58), individual or aggregated approvals may be issued. A single compliance review and approval under this section is subject to compliance with the decision making process in §55.20.

§ 55.25 Areawide compliance.

(a) A HUD-approved areawide compliance process may be substituted for individual compliance or aggregated compliance under §55.24 where a series of individual actions is proposed or contemplated in a pertinent area for HUD's examination of floodplain hazards. In areawide compliances, the area for examination may include a sector of, or the entire, floodplain—as relevant to the proposed or anticipated actions. The areawide compliance process shall be in accord with the decision making process under §55.20.

(b) The areawide compliance process shall address the relevant executive orders and shall consider local land use planning and development controls (e.g., those enforced by the community for purposes of floodplain management under the National Flood Insurance Program (NFIP)) and applicable state programs for floodplain management. The process shall include the development and publication of a strategy that identifies the range of development and mitigation measures under which the proposed HUD assistance may be approved and that indicates the types of actions that will not be approved in the floodplain.

(c) Individual actions that fit within the types of proposed HUD actions specifically addressed under the areawide compliance do not require further compliance with §55.20 except that a determination by the Department or a grant recipient subject to 24 CFR part 58 shall be made concerning whether the individual action accords with the areawide strategy. Where the individual action does not accord with the areawide strategy, specific development and mitigation measures shall be prescribed as a condition of HUD's approval of the individual action.

(d) Areawide compliance under the procedures of this section is subject to the following provisions: (1) It shall be initiated by HUD through a formal agreement of understanding with affected local governments concerning mutual responsibilities governing the preparation, issuance, implementation, and enforcement of the areawide strategy; (2) It may be performed jointly with one or more Federal departments or agencies, or grant recipients subject to 24 CFR part 58 that serve as the responsible Federal official; (3) It shall establish mechanisms to ensure that: (i) The terms of approval of individual actions (e.g., concerning structures and facilities) will be consistent with the areawide strategy; (ii) The controls set forth in the areawide strategy are implemented and enforced in a timely manner; and (iii) Where necessary, mitigation for individual actions will be established as a condition of approval.

(4) An open scoping process (in accordance with 40 CFR 1501.7) shall be used for determining the scope of...