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U.S. Department of Housing and Urban Development
Office of General Counsel
Regulations Division
451 7th Street SW
Room 10276
Washington, D.C. 20410-0500

Re: Rescission of Floodplain Management and Protection of Wetlands; Minimum Property Standards for Flood Hazard Exposure; Building to the Federal Flood Risk Management Standard, Docket No. FR-6527-P-01

Thank you for the opportunity to provide feedback on the Department of Housing and Urban Development's ("HUD") proposed rule, Rescission of Floodplain Management and Protection of Wetlands; Minimum Property Standards for Flood Hazard Exposure; Building to the Federal Flood Risk Management Standard, 91 Fed. Reg. 42,685 (Jul. 10, 2026).

The following comments are submitted on behalf of the National Housing Law Project ("NHLP"). NHLP's mission is to advance housing justice for people living in poverty and their communities. NHLP achieves this by strengthening and enforcing the rights of tenants and low-income homeowners and increasing housing opportunities for underserved communities. Our organization also provides technical assistance and policy support on a range of housing issues to legal services and other advocates nationwide. NHLP hosts the national Housing Justice Network ("HJN"), a vast field network of over 2,600 community-level housing advocates, legal aid attorneys, and resident leaders. HJN member organizations are committed to protecting affordable housing and residents' rights for low-income families across the country.

We write to oppose the proposed rule, which removes critical protections added by the 2024 final rule titled Floodplain Management and Protection of Wetlands; Minimum Property Standards for Flood Hazard Exposure; Building to the Federal Flood Risk Management Standard ("2024 final rule").[1] By reducing mitigation and notification requirements, the proposed rule puts low-income families that rely on HUD assistance at greater risk of displacement, homelessness, physical injury, and even death.[2]

[1] 89 Fed. Reg. 30,850 (Apr. 23, 2024).
[2] This proposed rule initially appeared at the Office of Information and Regulatory Affairs on July 7, 2025, just one business day following the catastrophic river flooding in central Texas that killed 136 people, including 28 children and counselors at Camp Mystic in Kerr County. The proposed rule was quickly withdrawn and resubmitted six months later. The devastating Texas flooding event demonstrated exactly why rolling back critical protections for HUD tenants residing in floodplains is misguided and dangerous.

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1. HUD fails to sufficiently justify its proposed changes or conduct a new cost analysis.

The 2024 final rule implemented the Federal Flood Risk Management Standard ("FFRMS") in accordance with Executive Order 13690,[3] since rescinded by the Trump Administration.[4] Under the pre-FFRMS standard, established by Executive Order 11988 nearly 50 years ago, non-critical federal actions were required to avoid, if possible, development in the 1% annual chance floodplain (also known as the 100-year floodplain).[5] Most HUD-assisted housing constitutes a non-critical action.[6]

Under the FFRMS, agencies were instructed to increase resiliency by designating flood hazard areas using a climate-informed science approach that looks at both past events and anticipated future changes. In the alternative, flood hazard areas could be based on the 0.2% annual chance floodplain, or the 1% annual chance floodplain plus two feet ("Freeboard Value Approach").[7] Thus, the FFRMS recognized the vulnerability of a broader geographic area to flooding with the goal of increasing the resilience of government investments in vulnerable areas.

To justify its replacement of the 1% annual chance floodplain standard with the FFRMS floodplain standard, HUD conducted a detailed and extensive Regulatory Impact Analysis ("RIA"). At nearly 50 pages long, HUD analyzed the potential costs and financial benefits of the final rule on the federal government, renter and homeowner households, and communities.[8]

Now, just over a year after the effective date of the 2024 final rule, HUD reverses its position with minimal explanation. HUD fails to address its findings in the 2024 RIA, or introduce any new evidence or data to controvert its prior conclusions. Nor does HUD provide any evidence or data from the past year showing whether the 2024 final rule has had a positive, negative, or neutral effect on affordable housing development or preservation. HUD also fails to provide a new RIA or cost analysis to justify its about-face. For example, in its 2024 RIA, HUD cites data showing that the new elevation standards would result in millions of dollars in savings on flood insurance premiums.[9] In the proposed rule, HUD states that "[i]nput from the public prior to the final rule's publication casts doubts on this prediction" but does not point to any particular comment or data set, or offer a new cost analysis.[10] Without a more detailed explanation and cost analysis, HUD's justification for reversing course is unsupported and insufficient.

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[3] 89 Fed. Reg. at 30,850.
[4] Rescission of Floodplain Management and Protection of Wetlands; Minimum Property Standards for Flood Hazard Exposure; Building to the Federal Flood Risk Management Standard, 91 Fed. Reg. 42,685, 42,686 (Jul. 10, 2026).
[5] *Id*. at n. 4; Exec. Order No. 11,988, 42 Fed. Reg. 26,951 (Mar. 24, 1977).
[6] HUD, FR-6272-P-01, Final Rule Regulatory Impact Analysis (Apr. 22, 2024), https://www.regulations.gov/document/HUD-2023-0025-0131, at 21.
[7] 89 Fed. Reg. at 30,851.
[8] Regulatory Impact Analysis, *supra* note 6.
[9] *Id*., at 28-29.
[10] 91 Fed. Reg. at 42,686.

2. Assessing flood hazard based on the 1% annual chance floodplain is no longer adequate to protect HUD-assisted families and HUD's affordable housing investments.

The 2024 final rule implementing the FFRMS was responsive to numerous studies showing that flooding events are increasing in frequency and intensity, and will continue to get worse because of climate change. Many of these studies are cited in HUD's 2024 RIA.[11] For example, HUD cites data from National Oceanic and Atmospheric Administration stating that the sea level along the contiguous U.S. coastline is expected to rise 10-12 inches over the next 30 years, resulting in increased flooding risk for coastal areas.[12] And the increased intensity of tropical cyclones, combined with increased frequency of extreme precipitation events, is projected to increase the risk of inland and river flooding.[13]

Federally assisted homes are more likely to be located in census tracts with the greatest risk of losses from river flooding than occupied homes generally (23 percent of federally assisted homes compared to 21 percent of occupied homes).[14] Similarly, federally assisted homes are more likely to be located in census tracts with the greatest risk of loss from coastal funding (11 percent of federally assisted homes versus 9 percent of occupied homes).[15] And between 2021 and 2051 the share of federally-assisted properties at risk of flooding from both a 1% annual chance and 0.2% annual chance flood is expected to roughly double.[16]

Members of our Housing Justice Network regularly serve low-income tenants and homeowners who reside in HUD-subsidized multifamily properties or FHA-insured single-family properties. They have seen first-hand the catastrophic impact of flooding events on HUD-assisted families. Often flooded properties are located outside of the 1% annual chance and even the 0.2% annual chance floodplains. For example:

- During Hurricane Ida in 2021, hundreds of tenants in Union County, New Jersey, were displaced from a HUD-subsidized property for more than a year due to severe flooding. Four tenants died as a result of the flooding. This property was located in the FFRMS floodplain, but not the 1% annual chance or 0.2% annual chance floodplain.[17]

- During Hurricane Helene in 2024, HUD-subsidized tenants in Asheville, NC were displaced due to catastrophic flooding. Only 2% of properties in the impacted western North Carolina counties fell inside a 1% annual chance floodplain.[18]

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[11] Regulatory Impact Analysis, *supra* note 6, at 2.
[12] *Id*.
[13] *Id*. at 3.
[14] National Low Income Housing Coalition and Public and Affordable Housing Research Corporation, *Natural Hazards and Federally Assisted Housing*, 8 (Nov. 2023), https://nlihc.org/sites/default/files/2023-11/natural-hazards-and-federally-assisted-housing.pdf.
[15] *Id*.
[16] Regulatory Impact Analysis, *supra* note 6, at 12.
[17] HUD cited this tragic event in its 2024 Regulatory Impact Analysis. *Supra* note 6, at 35.
[18] Kevin Crowe, Shannon Osaka, John Muyskens, *FEMA maps missed parts of North Carolina devastated by Hurricane Helene, Post analysis shows*, WASHINGTON POST (Oct. 13, 2024).

- Due to a severe flooding event in 2025, low-income families in Pike County, Kentucky were displaced from a flooded Section 8 Project-Based Rental Assistance property. Some tenants were displaced immediately; others were displaced when the city issued an emergency order to evacuate the partially-gutted property. This property appears to be located outside of a 1% annual chance floodplain.[19]

- During Tropical Storm Arthur in 2026, public housing units in Lafourche Parish, Louisiana experienced flooding. Displaced tenants then received eviction notices from the housing authority. While the eviction notices were ultimately retracted because they violated federal law, tenants remain displaced. This property appears to be located outside of a 1% annual chance floodplain.[20]

As these examples demonstrate, flooding events can happen anywhere, and they put the health, safety, and livelihood of low-income families at risk. HUD previously estimated that moving costs and lost wages for a displaced, flood-impacted tenant exceeds $1,000.[21] On top of this, many families lose much of their furniture and personal property when their unit floods. Yet families are not entitled to FEMA assistance unless there is a presidential disaster declaration. And where a tenant can access FEMA assistance, it often places the tenant farther away from jobs, schools, healthcare, and community, is time-limited, and is available only on a reimbursement basis.

Tenants displaced from federally subsidized housing face an even more acute crisis because they often endure temporary or permanent loss of their housing assistance. Frequently, tenants displaced from disaster-damaged HUD properties only have access to a replacement subsidy if the property is permanently pulled out of service (e.g. HUD approves demolition or terminates its contract with the property). Tenants who are lucky enough to receive a tenant-based voucher to relocate frequently find such assistance unusable in their community due to widespread damage, housing shortages, and inflated rents. As for returning to their units after repairs are made, major rehabilitation efforts can take years due to contractor shortages and insurance disputes.

As a result of all of these factors, HUD-subsidized families displaced by flooding experience stress, emotional trauma, and severe economic hardship.[22] Most of these families cannot afford housing on the private market due to their extremely limited incomes from low-wage jobs or Social Security. They end up doubled up with family, sleeping on couches for years, or homeless in a vehicle or on the street. Or they return to homes that are unsafe and endure the long-term health impacts of exposure to mold and other conditions resulting from water intrusion and/or improper mitigation.

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[19] FEMA, Flood Map Changes Viewer, http://msc.fema.gov/fmcv (last visited Sept. 1, 2026).
[20] *Id*.
[21] Regulatory Impact Analysis, *supra* note 6, at 33.
[22] See Eamin Z. Heanoy and Norman R. Brown, *Impact of Natural Disasters on Mental Health: Evidence and Implications*, HEALTHCARE, 12, 1812, at 12 (Sept. 10, 2024), https://doi.org/10.3390/healthcare12181812 (reviewing literature demonstrating that PTSD, depression, and anxiety are prevalent after a disaster, and that post-disaster anxiety symptoms are aggravated by loss of home, relocation, and lack of social supports).

Flooding events also threaten the long-term preservation of site-based deeply subsidized housing. In parts of the country where tenant-based vouchers are difficult to use due to widespread discrimination and inflated rents, low-income families depend heavily on site-based housing like public housing and Project-Based Section 8. But when a property is severely damaged or destroyed by a flooding event, the housing authority or owner is more likely to pursue demolition of public housing, decline to renew a Section 8 contract, or allow the property to fall into such severe disrepair that HUD is forced to terminate assistance. Due to the personal and societal harm of extreme flooding events, HUD should work toward increasing the resilience of HUD-assisted properties. This proposed rule does the opposite.

In sum, federally-assisted properties are especially vulnerable to flood damage, and will only become more vulnerable over the next 30 years. Assessing flood hazard based on the 1% annual chance floodplain is no longer adequate to protect HUD-assisted families and HUD's investments from catastrophic flooding.

3. HUD should maintain flexibilities for multifamily properties undergoing substantial improvements when it comes to elevation and floodproofing requirements.

HUD should maintain flexibilities for HUD-assisted multi-family properties undergoing substantial improvements to ensure that low-income tenants can access capital repairs without facing displacement. The 2024 final rule added an elevation requirement for HUD-assisted multifamily properties located in the FFRMS floodplain that embark on substantial improvement projects.[23] HUD considered displacement concerns in its 2024 Regulatory Impact Analysis, finding that 97 percent of HUD-assisted multifamily properties in the floodplain are two to three story garden-style apartments that could undergo elevation, or in the alternative, limit the cost of rehabilitation to less than "substantial" to avoid the elevation or floodproofing requirement.[24] HUD further opined that mid and high rise buildings could easily meet the standard by floodproofing and reserving the ground floor for non-residential use.[25] HUD ultimately analyzed the economic benefit of the new rule and found that it outweighed the costs.

NHLP believes that additional flexibilities are needed to ensure that multifamily properties – which are often older and in need of major repairs – can address capital needs without triggering an elevation requirement that displaces tenants. But the proposed rule's return to risk assessment and mitigation requirements based on the 1% annual chance floodplain is not the solution. For reasons described in the previous section, the 1% annual chance floodplain is no longer a protective enough standard for government investments and the safety of assisted families.

Rather, HUD should promulgate exceptions to any elevation requirement triggered by substantial improvement activities (1) where such activities are necessary to protect tenant health and safety but would be cost-prohibitive with an elevation requirement, or (2) where tenants

[23] 89 Fed. Reg. at 30,858; 24 C.F.R. § 55.20(e).
[24] Regulatory Impact Analysis, *supra* note 6, at 22.
[25] *Id*.

would be displaced by the substantial improvement if it triggered an elevation requirement. In the alternative, tenants displaced by any elevation requirement should be entitled to relocation assistance and comparable housing similar to the benefits available under the Uniform Relocation Assistance and Real Property Acquisition Policies Act ("URA").

4. HUD should preserve flood-risk notification requirements and required safety planning for low-income families.

Low-income people living in HUD-assisted housing have a right to notice of a flood risk so that they can make informed choices for their families' safety. Yet HUD's proposed rule removes notice requirements that benefit tenants without explanation. First, the 2024 final rule added 24 C.F.R. § 55.4, requiring detailed notice to homeowners and renters about flood risk and resources. Specifically, § 55.4(a) requires notice to property owners, buyers, and developers about (1) whether flood insurance is required or available, (2) the approximate elevation of the FFRMS floodplain, (3) the proximity to flood-related infrastructure like dams and levees, (4) the location of ingress and egress or evacuation routes, (5) information on flood insurance claims filed on the property from FEMA, and (6) other relevant information such as available emergency notification resources. Section 55.4(b) requires notice to renters of HUD-assisted, HUD-acquired, and HUD-insured rental properties within the FFRMS floodplain of (1) the fact that the property is in a floodplain and the availability of flood insurance, (2) the location of ingress and egress routes, (3) emergency notification resources, and (4) the property's emergency procedures for residents in the event of flooding. Tenants must sign an acknowledgment that they have received this critical information in new and renewal leases.

HUD's proposed rule removes these notification requirements, and replaces them with a lesser requirement in § 55.21 that parties participating in financial transactions at HUD-assisted properties in a 1% annual chance floodplain (or 0.2% annual chance floodplain for critical actions), be informed "of the hazards of the floodplain location . . . ."[26] Removing the specific requirements to notify owners and tenants of critical safety resources like evacuation routes, early warning systems, and emergency procedures is unjustified and will put HUD-assisted families at increased risk of physical harm or death. HUD does not explain in its proposed rule why it is removing these specific requirements. It is minimally burdensome and completely reasonable to require a HUD-assisted property, in exchange for federal resources, to take basic precautions to protect resident life and safety. HUD should keep the notification requirements in § 55.4 intact, or at the very least explain why they are being removed.

Second, the 2024 final rule included requirements at § 55.20(e)(4)(i) that multifamily residential properties and residential healthcare facilities in the FFRMS floodplain develop an evacuation plan that includes safe egress routes, plans for evacuating residents with special needs, and clear communication about the plan and safety resources for residents. HUD's proposed rule removes this requirement, and requires only that critical actions include development of an early warning system, emergency evacuation and relocation plan, and identification of evacuation routes out of the floodplain.[27] Most multifamily rental properties will

[26] 91 Fed. Reg. at 42696.
[27] *Id*.

not qualify as critical actions, so under the proposed new rule tenants at these properties will be left without critical safety resources in the event of flooding. It is inconceivable why HUD would remove a requirement to have a plan for evacuating families, including those with disabilities, from HUD-assisted properties in the event of catastrophic flooding. Having an evacuation plan and early warning system means the difference between life and death in the event of a serious flooding event like the one that that killed four residents of a HUD-assisted building in New Jersey in 2021. HUD once again does not explain why it is removing this requirement, which is minimally burdensome and critical to preserving life and safety of HUD-assisted residents. HUD should leave the planning and notification requirements in § 55.20(e)(4) intact, or at the very least explain why they are being removed.

5. HUD should continue to require engagement of communities impacted by environmental justice concerns.

As HUD recognized in its 2024 RIA, Black and Hispanic households are more likely to live in areas subject to higher flood risks.[28] And a recent peer-reviewed study demonstrates that communities with higher Black populations are more vulnerable to climate change-induced increased flooding than communities with low Black populations.[29] Predominantly Black communities in the South from Texas to Virginia are projected to see at least a 20 percent increase in flood risk over the next 30 years.[30] In contrast, most census tracts with the lowest Black populations see very little increase in flood risk.[31] Historic and contemporary public policy decisions have resulted in the disproportionate concentration of flood risk in minority communities. Therefore, it is critical that federal actions in floodplains and wetlands engage with the communities that are most vulnerable to any associated risk of harm in order to properly assess and mitigate adverse impacts.

Recognizing the importance of considering the impacts of federal action on communities historically subjected to environmental justice concerns, the 2024 final rule added several references to environmental justice in the decision-making process in § 55.20:

- When a proposed activity is located in or affects a community with environmental justice concerns, the agency must consult and engage with impacted communities in the manner prescribed by (since-rescinded) Executive Order 12898. 24 C.F.R. § 55.20(b)(4).

- When considering alternatives to locating a proposed action in the FFRMS floodplain the agency must consider environmental justice. 24 C.F.R. § 55.20(c)(2)(ii).

- In considering whether to approve a proposed action in a floodplain and whether alternatives are available, HUD must address input provided during

[28] Regulatory Impact Analysis, *supra* note 6, at 39.
[29] O.E.J. Wing, W. Lehman, P.D. Bates et al, *Inequitable patterns of US flood risk in the Anthropocene*, NAT. CLIM. CHANG., 12, 156–162 (2022), https://doi.org/10.1038/s41558-021-01265-6.
[30] *Id*.
[31] *Id*.

environmental justice outreach and document mitigation measures. 24 C.F.R. § 55.20(f)(2)(ii).

Though the executive order upon which these engagement requirements were based has been rescinded, environmental justice remains a critical consideration that should be preserved. HUD should retain the environmental justice requirements in § 55.20 to avoid disproportionate adverse impacts on communities with histories of discriminatory treatment and disinvestment, especially Black communities and other communities of color.

In conclusion, HUD's 2024 final rule was designed to protect HUD's investments, preserve affordable housing, and protect low-income tenants and homeowners from the financial and physical harms of flooding. The final rule updated HUD's flood hazard mitigation standards to reflect modern science and to acknowledge increased risk over time caused by climate change. It added critical requirements for safety planning and notification of flood hazards. HUD's unsupported rescission of the rule will cause loss of affordable housing stock and severe economic and physical harm to tenants and homeowners impacted by flooding. NHLP is painfully aware of the need to build more deeply subsidized housing. However, building that housing using an outdated and inaccurate standard for flood hazard mitigation will not help low-income families or increase the resilience of our country's depleted affordable housing stock. We urge HUD to rethink its wholesale rescission of the 2024 final rule.

Thank you for your consideration of our comments. Should you have any questions, please feel free to reach out to Hannah Adams at hadams@nhlp.org.

Sincerely,

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