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Affordable Housing Alert

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HUD Proposes Rollback of 2024 Floodplain Rule

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HUD proposes rescinding key 2024 flood risk standards, potentially easing floodplain review and lowering costs for assisted housing projects.

What's the impact?

- HUD proposes rescinding much of its 2024 Federal Flood Risk Management Standard (FFRMS) rule, narrowing floodplain review for HUD-assisted new construction and substantial improvements.
- The proposal may reduce compliance costs and make more public housing and multifamily-assisted rehab projects eligible for HUD funding.
- The proposal realigns HUD's floodplain standards with the National Flood Insurance Program (NFIP).

Projects which are proposed to receive US Department of Housing and Urban Development (HUD) assistance are subject to environmental review. A part of that environmental review includes an assessment as to whether the project is in a floodplain. If it is determined that the project is in a floodplain, that may trigger the need for remediation measures which can be costly. In the worst-case scenario, it may be determined that the project is ineligible for any federal assistance. These impediments can stand in the way of affordable housing receiving much-needed rehabilitation.

With a July 10, 2026 notice in the *Federal Register* (FR Notice), HUD has proposed to rescind much of a 2024 final rule change that established the Federal Flood Risk Management Standard (FFRMS). The 2024 FFRMS standard provides a three-tiered approach to determining whether HUD-funded new construction or substantial improvement (cost of the planned work equals or exceeds 50% of the market value of the structure before the repair) projects must comply with the decision making, elevation, and mitigation requirements of federal Floodplain Management regulations.

Under the 2024 final rule, the three approaches available to establish FFRMS often resulted in more land and more projects subject to Floodplain Management regulation. The FR Notice estimates that 9.31% of the existing public housing portfolio and 7.1% of the existing multifamily-assisted and -insured portfolios are in the FFRMS floodplain. According to the FR Notice, partial recission of the 2024 final rule is expected to save $4.5 million to $85 million in annual construction costs.

Modification to the evaluation of projects in a floodplain

The revised regulations streamline and clarify the minimization and restoration requirements currently included in the "8-step" decision making process applicable to properties partially or wholly within the federal floodplain of concern. The proposed rule clarifies that non-critical actions in the floodplain must be designed and built following applicable National Flood Insurance Program (NFIP) and local requirements, which requires all residential units are located at or above the 1% annual chance or "Base" Flood Elevation (BFE).

Provisions carried over from the 2024 final rule

Some provisions of the 2024 final rule are retained by the proposal, including:

- The categorical exclusion for minor rehabilitation of one- to four-unit residential properties
- Clarification that HUD assistance may be used in floodways where all structures and most improvements are removed from the floodway and a permanent covenant or comparable restriction is entered into prohibiting future floodway development
- Terminology clarifications
- A clarified incidental floodplain and floodway exception
- The removal of a regulation requiring consideration of area-wide compliance

In addition to maintaining the above provisions, the proposal would maintain the "Alternate Processing for Existing Nonconforming Sites" in a new regulation with minor revisions. HUD must still:

- Complete an 8-step decision-making review pursuant to the National Environmental Policy Act
- Require flood-risk minimization
- Determine HUD assistance cannot be transferred to a safer site

Final approval of the alternate processing would be granted by the Assistant Secretary for the relevant program area rather than the Assistant Secretary for Community Planning and Development.

REGARDING THE ALTERNATE PROCESSING PROVISION, FR NOTICE ELABORATES:

This section should be applied only in rare cases and is not intended to eliminate the general restrictions on providing HUD assistance for projects within floodways, coastal high hazard areas, or Coastal A Zones. However, HUD recognizes that there are circumstances in which terminating HUD assistance would not improve residents' overall resilience or safety in the context of HUD's mission. In such cases, HUD will closely review the site and determine whether the best option to improve flood resilience would be financing improvements at the existing site or rejecting HUD assistance at the site.

Conclusion

The 2024 FFRMS standard made many more HUD public housing and multifamily-assisted development subject to more stringent Floodplain Management rules. By returning the floodplain of concern back to the 1% chance floodplain, the proposed rule may open the door for substantial improvement projects at numerous sites across the country. Removal of the FFRMS also brings HUD's regulation back in line with the standards of the NFIP and numerous local and state-level floodplain regulations. Comments on the proposed rule must be submitted by September 8, 2026, either electronically through the Federal eRulemaking Portal at www.regulations.gov or by mail to HUD's Regulations Division.

Nixon Peabody's Affordable Housing and Real Estate team helps clients navigate HUD requirements, environmental review, floodplain compliance, and financing considerations for housing projects.

For guidance on how HUD's proposed rule may affect your development, rehabilitation, or preservation plans, contact our Affordable Housing and Real Estate group.

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