



December 27, 2016

The Honorable Julián Castro  
Secretary  
U.S. Department of Housing and Urban Development  
451 7th Street, S.W.  
Washington, D.C. 20410

**Re: Minimum Property Standards for Flood Hazard Exposure; Building to the Federal Flood Risk Management Standard; Docket No. HUD-2016-0124-0001**

To Whom It May Concern:

The National Housing Conference (NHC) welcomes efforts by the Department of Housing and Urban Development (HUD) to ensure that future housing development occurs out of harm's way. The proposed rule: "Floodplain Management and Protection of Wetlands; Minimum Property Standards for Flood Hazard Exposure; Building to the Federal Flood Risk Management Standard" would take valuable steps to protect residents from flood risk, protect homes from flood damage, and reduce the cost of rebuilding after a flood. We thank HUD for its efforts and appreciate the opportunity to comment on the proposed rule.

NHC offers several comments on the proposed rule, summarized here with greater detail below:

- Freeboard is a widely used standard for guiding real estate investments
- Alternatives to elevation are essential options for multifamily properties
- Properties in progress should be grandfathered
- Mapping challenges require national solutions
- Local flexibility with HUD oversight is appropriate

## **I. About the National Housing Conference**

The National Housing Conference (NHC) represents a diverse membership of housing stakeholders including tenant advocates, mortgage bankers, nonprofit and for-profit home builders, property managers, policy practitioners, real estate professionals, equity investors, and more, all of whom share a commitment to safe, decent and affordable housing for all in America. We are the nation's oldest housing advocacy organization, dedicated to the affordable housing mission since our founding in 1931. We are a nonpartisan, 501(c)3 nonprofit that brings together our broad-based membership to advocate on housing issues.

## **II. Comments on the proposed rule**

In implementing the Federal Flood Risk Management Standard, HUD must balance competing needs: getting people and property out of harm's way and ensuring availability of affordable housing. We offer several comments here all designed to help HUD strike the right balance between these sometimes competing objectives.

### **A. Freeboard is a widely used standard for guiding real estate investments**

HUD's choice to use the freeboard value approach to guide the proposed rule is appropriate to residential real estate decisionmaking. Twenty-two states use a freeboard building requirement already, and of those, several have a two foot minimum in the 1% floodplain: Indiana, Montana, New York, and Wisconsin. Outside of those states, 232 communities have their own freeboard building requirement of two feet or more.<sup>1</sup> Developers, lenders, builders, investors, and others involved in housing development should find the standard familiar and workable.

### **B. Alternatives to elevation are essential options for multifamily properties**

For multifamily properties in particular, flexibility to floodproof using techniques other than elevation is essential. Multifamily properties are typically on larger sites that may have more variation in elevation within the site, have more complex architecture, and otherwise have more constraints on the configuration. Floodproofing rather than elevation may be the most efficient means to protect the structure and the residents with some properties. We therefore support HUD's proposed language in the rule to allow floodproofing as an alternative for multifamily properties.

### **C. Properties in progress should be grandfathered**

Multifamily rental housing development is a long, complex process with many moving pieces. Changing requirements mid-stream could prevent a development from moving forward if, for instance, financing sources cannot accommodate changes in cost. We therefore recommend that HUD include a 12-month grandfathering period for properties whose applications funding or mortgage insurance applications are already in process when the rule goes into effect. This would provide for an orderly transition to the new requirements included in the proposed rule.

### **D. Mapping challenges require national solutions**

Neither the proposed rule nor the Federal Flood Risk Management Standard itself provide clear indication of the horizontal extent of the redefined floodplain. Putting the burden on individual property owners of determining whether a site falls within the horizontally extended 1% flood plain is costly and inefficient. Mapping is an obvious public good, something best provided centrally for common use rather than repeatedly being provided individually. The challenge of the horizontal extension of the flood plain highlighted in the proposed rule is part of the larger problem of the need to clearly identify

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<sup>1</sup> "States and Other Communities in FEMA CRS with building freeboard requirements" compiled by the Association of State Flood Plain Managers, available at [https://www.floods.org/ace-files/documentlibrary/FloodRiskMngmtStandard/States with freeboard and CRS Communities with Freeboard in Other states 2-27-15.pdf](https://www.floods.org/ace-files/documentlibrary/FloodRiskMngmtStandard/States%20with%20freeboard%20and%20CRS%20Communities%20with%20Freeboard%20in%20Other%20states%202-27-15.pdf).

and map which properties are at what level of risk, a task that is largely outside of HUD's jurisdiction. We commend to you the recommendations on mapping made to FEMA by the Smarter Safer Coalition, of which NHC is a member. HUD's approach to flood risk should be able to rely on FEMA to provide up-to-date, accurate maps and property elevations.

#### **E. Local flexibility with HUD oversight is appropriate**

Given both the limitations of available maps and the uncertainties around the horizontal extent of the expanded floodplain, the rule's proposal to allow "HUD to enter into voluntary agreements with communities to limit horizontal extent beyond the 100-year floodplain" is reasonable, as long as the two conditions specified in the rule are met:

"(1) Best available and actionable climate data shows the area and horizontal extent of the two foot freeboard (or three foot for a Critical Action) FFRMS exceeds local, relative sea-level rise rates or other climate-related projections and the 500-year floodplain including wave heights; and

(2) There are limited or no safely or sustainably developable sites in a community outside of the two foot FVA (or three foot for a Critical Action)."

The proposed approach gives HUD some discretion to work with local communities to address real estate realities, but requires that flexibility operate within the overall risk reduction framework.

### **III. Conclusion**

Long-term management of flood risk is the right path for HUD to take. Too often in the past, affordable housing has been forced into low-lying, flood-prone places that expose residents to repeated dangers and incur repeated rebuilding costs for government. Guiding development of affordable housing into places of lower risk and with techniques for mitigating risk serves residents, property owners, and taxpayers well.

To discuss any of these comments in further detail, please contact Ethan Handelman, Vice President for Policy and Advocacy, National Housing Conference, (202) 466-2121 x238, ehandelman@nhc.org.

Sincerely,

A handwritten signature in black ink that reads "Chris Estes". The signature is written in a cursive, flowing style.

Chris Estes  
President and CEO