

## Temporary, Partial Waiver of 24 CFR § 200.926d(c)(4)

Pursuant to § 7(q) of the Department of Housing and Urban Development Act (codified at 42 U.S.C. § 3535(q)), and the waiver authority contained in 24 CFR § 5.110, I hereby partially waive provisions of 24 CFR § 200.926d(c)(4), Drainage and flood hazard exposure, which require a residential structure located in a Special Flood Hazard Area or a FEMA-designated “coastal high hazard areas” to be constructed such that the lowest floor is at least two feet above the base flood elevation and further require a mortgagee to obtain signed an Elevation Certificate documenting that the lowest floor of the residential structure is, in fact, at least two feet above the base flood elevation.

The relevant aspects of the rule are set forth below:

(i) **Residential structures located in Special Flood Hazard Areas.** The elevation of the lowest floor (including basements and other permanent enclosures) shall be at least two feet above the base flood elevation (see [24 CFR 55.8\(b\)](#) for appropriate data sources).

(ii) **Residential structures located in FEMA-designated “coastal high hazard areas.”** Where FEMA has determined the base flood level without establishing stillwater elevations, the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) and its horizontal supports shall be at least two feet above the base flood elevation.

(iii) **New construction.**

(A) In all cases in which a Direct Endorsement (DE) mortgagee or a Lender Insurance (LI) mortgagee seeks to insure a mortgage on a one- to four-family dwelling that is newly constructed (including a newly erected manufactured home) that was processed by the DE or LI mortgagee, the DE or LI mortgagee must determine whether the property improvements (dwelling and related structures/equipment essential to the value of the property and subject to flood damage) are located on a site that is within a Special Flood Hazard Area, as designated on maps of the Federal Emergency Management Agency. If so, the DE mortgagee, before submitting the application for insurance to HUD, or the LI mortgagee, before submitting all the required data regarding the mortgage to HUD, must obtain:

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(3) A signed Elevation Certificate documenting that the lowest floor (including basements and other permanent enclosures) of the property improvements is at least two feet above the base flood elevation as determined by FEMA's best available information (or documenting that the

lowest floor meets HUD's elevation standard for newly erected manufactured housing in [24 CFR 203.43f](#) or [24 CFR part 3285](#), as applicable).

Effective immediately, I hereby waive the “at least two feet” language in 24 CFR § 200.926d(c)(4). The rest of the requirements of 24 C.F.R. § 200.926d(c)(4) remain in place. Accordingly, a residential structure located in a Special Flood Hazard Area or a FEMA-designated “coastal high hazard area,” would still need to be constructed such that the lowest floor is above the base flood elevation and a mortgagee would still need to obtain an Elevation Certificate documenting this fact.

The partial waiver will be in effect for one year from the date signed.

In support of the partial waiver, I make the following Findings and Determinations:

## **FINDINGS**

1. On April 23, 2024, the U.S. Department of Housing and Urban Development (HUD) Office of Environment and Energy (OEE) published the final rule, Floodplain Management and Protection of Wetlands; Minimum Property Standards for Flood Hazard Exposure; Building to the Federal Flood Risk Management Standard, [Docket No. FR-6272-F-02] in the Federal Register.
2. This final rule revised HUD’s regulations governing floodplain management and the protection of wetlands to implement the Federal Flood Risk Management Standard (FFRMS) in accordance with Executive Order 13690 titled, “Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input,” dated January 30, 2015.
3. In relevant part, this final rule revised HUD’s Minimum Property Standards (MPS) under 24 CFR § 200.926d(c)(4), Drainage and flood hazard exposure, which addresses new construction requirements for residential structures under HUD’s mortgage insurance programs.
4. The change required that the lowest floor in newly constructed structures located within the 1- percent-annual-chance (100-year) floodplain be built at least two feet above the Base Flood Elevation (BFE). This new elevation standard is applicable to New Construction with building permit application submission dates on and after January 1, 2025.
5. The flood elevation requirement for building permit applications before January 1, 2025, require that the lowest floor in newly constructed structures located within the 1- percent-annual-chance (100-year) floodplain be built at least to the Base Flood Elevation (BFE), which is consistent with the FEMA National Flood Insurance Program.

6. The new MPS required elevation exceeds the requirements under the FEMA National Flood Insurance Program and nearly all participating communities.
7. On January 20, 2025, President Trump issued Executive Order: Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis which recognizes that many Americans are unable to purchase homes due to historically high prices, in part due to regulatory requirements that alone account for 25 percent of the cost of constructing a new home according to recent analysis. This order requires agencies to deliver emergency price relief, consistent with applicable law, which includes pursuing appropriate actions to lower the cost of housing and expand the housing supply.
8. On January 20, 2025, President Trump issued an Executive Order rescinding Executive Order 14030 of May 20, 2021 (Climate-Related Financial Risk) which previously reinstated EO 13690 titled, “Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input”.
9. Without this partial waiver, the new MPS required elevation standard will limit the land available for development and increase the cost of construction for FHA insured properties, thereby contributing to the insufficient supply of new construction housing and rising home prices.

## **DETERMINATIONS**

1. To assist in ensuring the continued availability of FHA new construction financing options to expand the housing supply and deliver emergency housing price relief, a partial waiver of the requirement that properties within the 1- percent-annual-chance (100-year) floodplain be built at least “two feet above” the Base Flood Elevation (BFE) must be granted.
2. The granting of this partial waiver is consistent with the Department’s objectives to assist borrowers with the availability and affordability of new construction housing options.
3. The granting of this partial waiver for a limited period restores the status quo prior to the adoption of the final rule (which required the lowest floor of a residential structure located in a Special Flood Hazard Area or a FEMA-designated “coastal high hazard area,” to be constructed at or above the base flood elevation) and gives Housing an opportunity and allows time to review the rulemaking that was implemented based on an executive order that has since been rescinded.
4. All other requirements and guidance concerning FHA requirements in 24 CFR Part 200 remain unchanged.

5. Pursuant to the authority contained in 24 CFR § 5.110, the above findings constitute good cause for granting the partial waiver of § 200.926d(c)(4).

Issued: February 20, 2025  
Washington, D.C.

Matthew E. Ammon  
Performing the Delegable Duties of the Deputy Secretary

Date