

# HUD'S FLOODPLAIN MANAGEMENT AND WETLAND PROTECTION REGULATIONS

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Tribal Consultation

June 28, 2021

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# Background

- **January 30, 2015:** Executive Order (EO) 13690, Establishing a Federal Flood Risk Management Standard (FFRMS) and a Process for Further Soliciting and Considering Stakeholder Input
  - EO 13690 amends EO 11988, Floodplain Management (1977) and establishes new approaches to define the floodplain
- **October 28, 2016:** HUD published a proposed rule revising Part 55 and implementing FFRMS
  - This proposed rule was withdrawn in 2017 and never went into effect
- **May 20, 2021:** EO 14030, Climate-Related Financial Risk, reinstated EO 13690 and FFRMS
  - These Orders have no effect on HUD grantees until HUD publishes a final rule to put them into effect for HUD projects
  - HUD hopes to have a proposed rule implementing FFRMS published in the Federal Register early in 2022 with a final rule in effect early in 2023

# HUD's Climate Priorities

- EOs 13990 and 14008 call on the Federal government to address impacts of the climate crisis using current science
- This includes considering and addressing the environmental justice impacts of climate change
- Improving floodplain management and increasing flood resilience is an important component of this response

# Overview of HUD's Environmental Regulations

- Part 50: Procedural requirements when HUD performs environmental reviews
- Part 51: Manmade hazards
  - Noise
  - Explosive and flammable hazards
  - Airport clear zones
- Part 55: Floodplain management and wetland protection
- Part 58: Procedural requirements when responsible entities (REs) perform environmental reviews



# 2018 Tribal Consultation

- In May 2018, HUD initiated Tribal consultation on its efforts to streamline its environmental regulations
  - This rulemaking focused on Parts 50 and 58
  - HUD shared a draft proposed rule with Tribes in August 2018
- HUD is not currently pursuing that rule, but intends to revisit revising Parts 50 and 58 soon

## 24 CFR Part 55 – Floodplain Management and Wetlands Protection

- Implements 2 Executive Orders (EOs)
  - EO 11988, Floodplain Management
  - EO 11990, Wetlands Protection
- Requires 8-Step Decisionmaking Process to evaluate alternatives to actions that would occupy or modify floodplains or impact wetlands

## Consultation Timeline

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Submit early comments by **Tuesday, July 18**

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Draft proposed rule will be circulated to Tribal Leaders for an additional 60-day comment period **later this summer**

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HUD plans to publish a proposed rule in the Federal Register for broader public comment in **early 2022**

# How to Comment

Due to the ongoing COVID-19 National Emergency, please submit all comments, recommendations, and questions electronically to:  
[EnvironmentalPlanningDivision@hud.gov](mailto:EnvironmentalPlanningDivision@hud.gov)

# HUD's Rulemaking Goals

Currently include...

- Implement FFRMS (defining floodplain)
- Revise procedures to identify wetlands
- Provide clearer instructions for the 8-Step Process
- Reorganize Part 55 for clarity

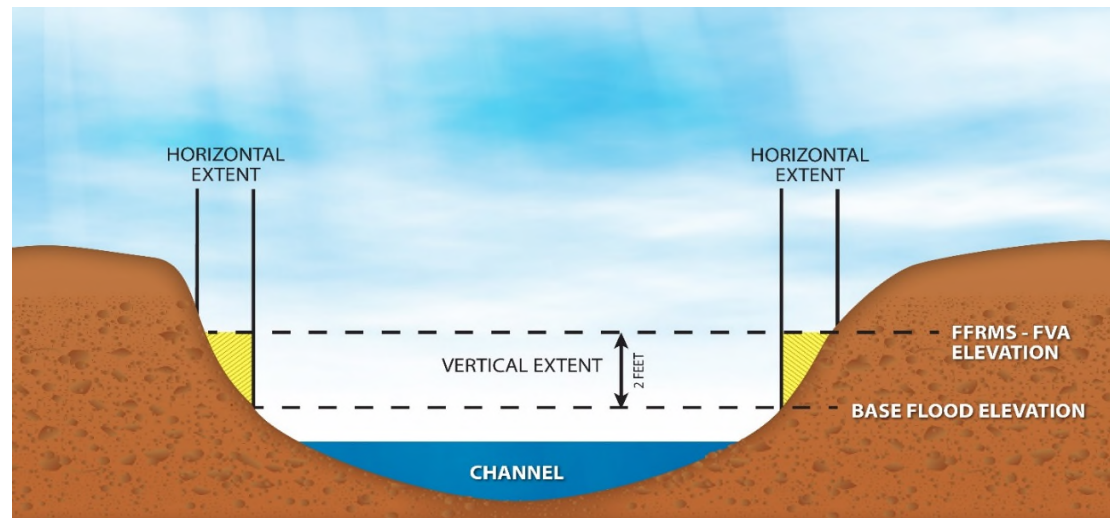
# Implementing FFRMS

- Under FFRMS, Federal agencies have the option of choosing from three approaches to define the floodplain:
  1. Climate-Informed Science Approach (CISA): Utilizing best-available, actionable data and methods that integrate current and future changes in flooding based on science,
  2. Freeboard Value Approach (FVA): Two or three feet of elevation, depending on the criticality of the building, above the 100-year, or 1 percent-annual-chance, base flood elevation (BFE), or
  3. 500 Year Flood (0.2 Percent Flood): 500-year, or 0.2 percent-annual-chance, flood elevation.
- In 2016, HUD chose to rely on the FVA approach because it could be applied using existing FEMA maps without special expertise
  - However, this may not be the case on Tribal lands

# Freeboard Value Approach (FVA)

FFRMS would expand the floodplain both **vertically** (by adding to the base flood elevation) and **horizontally** (by enlarging the horizontal area of interest commensurate with the vertical increase)

- This is the approach HUD proposed in 2016
- New construction and substantial improvement projects would be required to elevate 2 feet above BFE



# Defining Floodplains

- HUD is considering adjusting its approach in this rule to rely on CISA and/or the 500-year floodplain
  - Either in addition to or instead of the FVA approach
- We want to define an approach that will be effective and reliable on Tribal lands
- Questions
  - What methods do you use now to define the floodplain where FEMA maps are not available? Are there any best practices you would suggest to HUD and/or other Tribes?
  - How can Part 55 improve the process for Tribes?
  - What approach to FFRMS would work best on Tribal lands?
  - What resources would help Tribes identify and define floodplains?



# Defining Wetlands

- What tools or methods do you use now to identify wetlands?
  - National Wetlands Inventory?
  - Other Tribal, Federal or State maps such as soil surveys?
  - Services of a wetlands biologist?
- What are wetlands identification best practices or workable solutions that HUD should encourage or facilitate through 24 CFR 55?

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