

# HUD'S FLOODPLAIN MANAGEMENT AND WETLAND PROTECTION REGULATIONS

---

Tribal Consultation

August 31, 2021

Join WebEx at <https://ems8.intellor.com/login/840480>

Dial into conference by dialing **888.251.2949** or  
**215.861.0694** and access code **9990439#**

# Questions?

- **Through WebEx meeting:**
  - To provide a written comment or question, click “Chat” in the lower right-hand corner of the Webex window.
- **Through the conference call:**
  - We will be muting the lines until the first set of questions.
  - After viewing each set of questions, please indicate when you would like to be unmuted to speak, and we will unmute attendees one at a time.
  - To raise your “hand” via the conference line to be unmuted when asking a question, press #2.
- **Note that the webinar (including spoken comments) will be recorded.**

# HUD Office of Environment & Energy

## Moriel Tchaou

Acting Director, Office of Environment and Energy

Director, Environmental Planning Division

Department of Housing and Urban Development

## Office of Environment & Energy

Homepage:

<https://www.hudexchange.info/programs/environmental-review/>

Mailbox: [EnvironmentalPlanningDivision@hud.gov](mailto:EnvironmentalPlanningDivision@hud.gov)



# Office of Environment & Energy

## Liz Zepeda

Policy Lead/Senior Environmental Protection Specialist  
Office of Environment & Energy  
Department of Housing and Urban Development



## Zach Carter

Senior Environmental Protection Specialist  
Office of Environment & Energy  
Department of Housing and Urban Development



## Office of Environment & Energy

Homepage:

<https://www.hudexchange.info/programs/environmental-review/>

Mailbox: [EnvironmentalPlanningDivision@hud.gov](mailto:EnvironmentalPlanningDivision@hud.gov)

# Office of Native American Programs (ONAP)

## Danielle Schopp

Program Environmental Clearance Officer  
(PECO)

Office of Native American Programs

Department of Housing and Urban  
Development

## Office of Native American Programs

Homepage: [www.hud.gov/codetalk](http://www.hud.gov/codetalk)  
Mailbox: [Codetalk@hud.gov](mailto:Codetalk@hud.gov)



# 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

---

First consultation period concluded on  
Tuesday, July 18

---

Please submit comments on HUD's draft  
proposed rule by **October 18<sup>th</sup>, 2021**

---

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 Goals for this Draft Rule

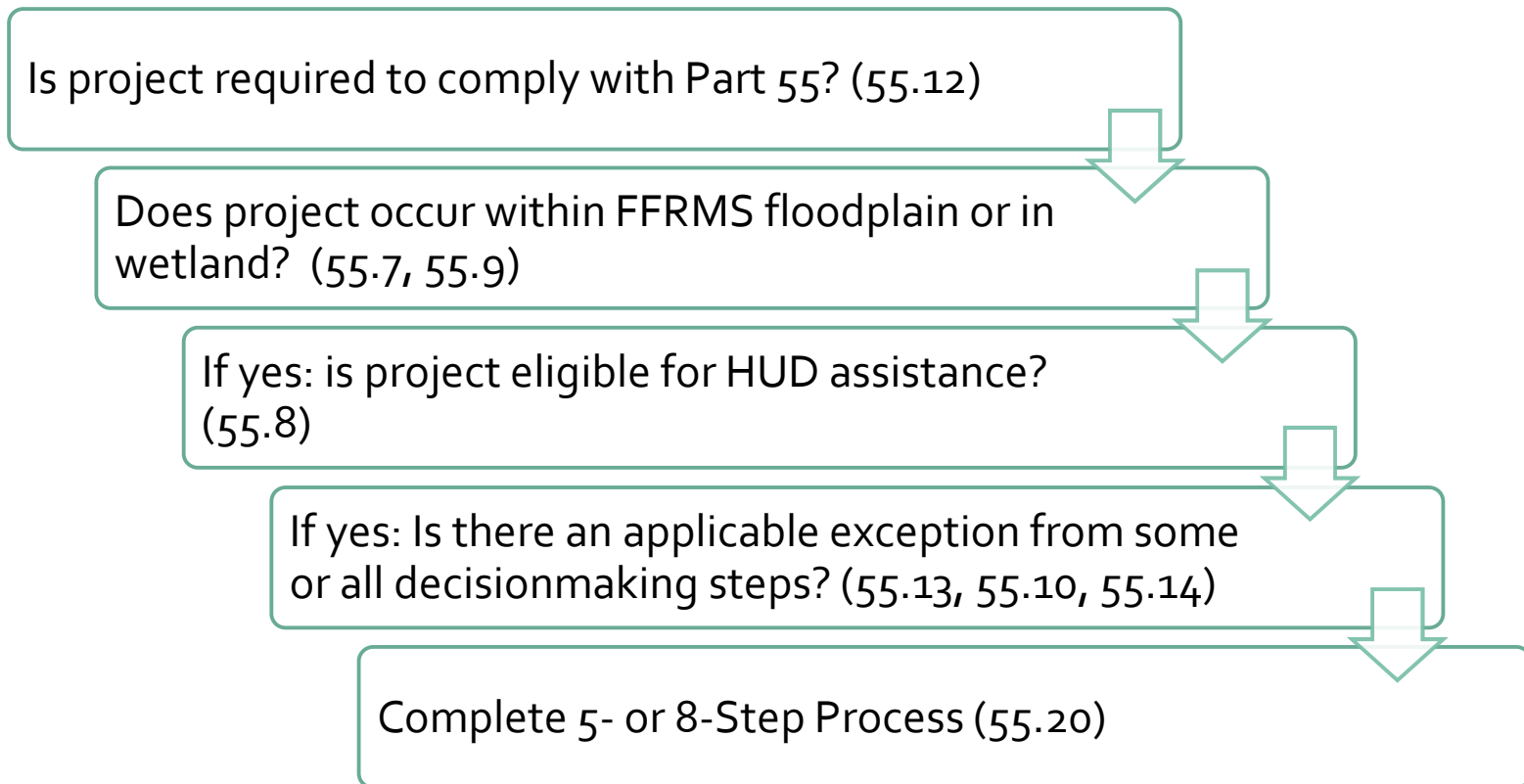
HUD is proposing revisions with several goals:

1. Implement EO 13690 by redefining the floodplain of concern as the **FFRMS floodplain**
2. Revise **floodway policies** to replace strict prohibitions with reasonable flexibilities where appropriate
3. Update instructions regarding the **8-Step Process** to foster better analysis and improve overall climate resilience and safety
4. Edit **wetlands protection** policies to eliminate confusing and overly burdensome procedures
5. **Reorganize** Part 55 to establish a more logical order and clarify compliance requirements

<b>Subpart A—General</b> .....	2
§55.1 Purpose.....	2
§55.2 Terminology.....	2
§55.3 Assignment of responsibilities.....	5
§55.4 Notification of floodplain hazard.....	7
§55.5 Flood Insurance.....	7
§55.6 Complying with this part.....	8
<b>Subpart B—Application of Executive Orders on Floodplain Management and Protection of Wetlands</b> .....	9
§55.7 Identifying the FFRMS Floodplain.....	9
§55.8 Limitations on HUD assistance in floodplains.....	10
§55.9 Identifying wetlands.....	12
§55.10 Limitations on HUD Assistance in Wetlands.....	12
§55.12 Inapplicability of 24 CFR part 55 to certain categories of proposed actions.....	13
§55.13 Inapplicability of 8-Step decisionmaking process to certain categories of proposed actions.....	14
§ 55.14 Modified 5-step decisionmaking process for certain categories of proposed actions.....	15
§55.16 Applicability of Subpart C decisionmaking process.....	16
<b>Subpart C—Procedures for Making Determinations on Floodplain Management and Protection of Wetlands</b> .....	17
§55.20 Decision making process.....	17
§55.21 Alternate processing for existing nonconforming sites.....	24
§55.22 Conveyance restrictions for the disposition of multifamily real property.....	24
§55.23 [Reserved].....	25
§55.26 Adoption of another agency's review under the executive orders.....	25

# NEW ORGANIZATION

# Clearer Process (55.6)



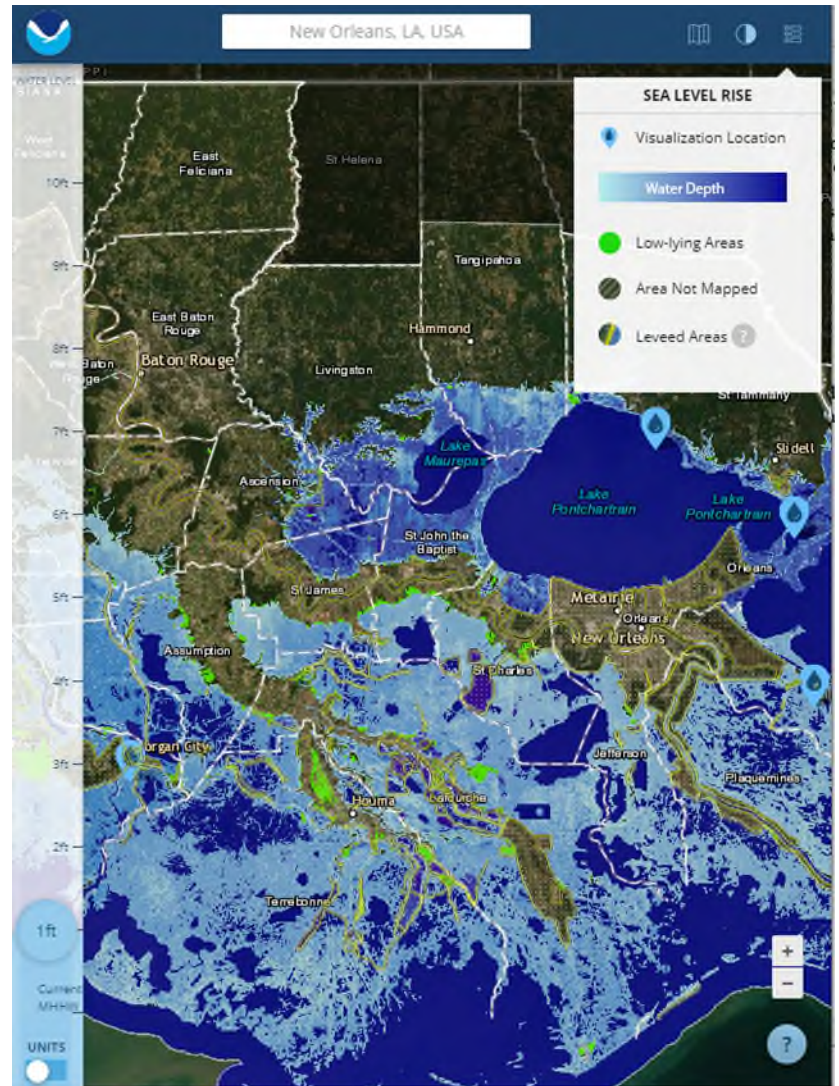
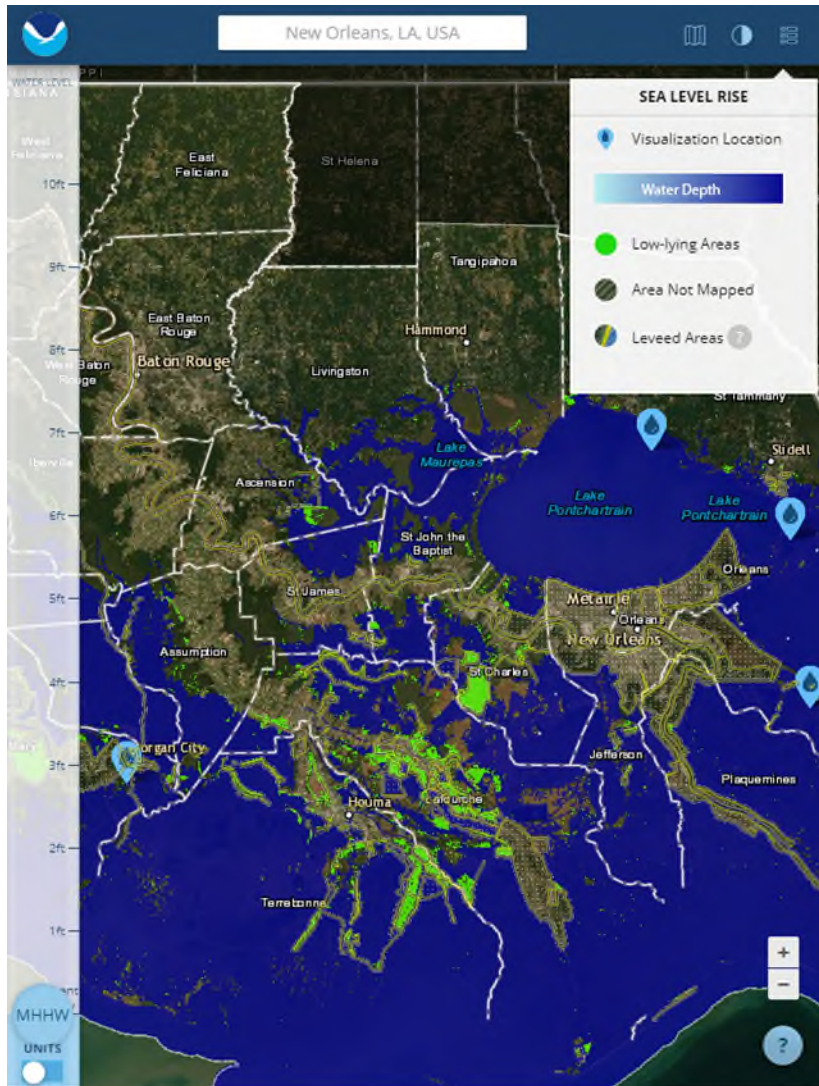
# HUD's Draft Approach to FFRMS

In this draft, HUD proposes a **3-tiered approach** to define the FFRMS floodplain:

1. **Climate-Informed Science Approach (CISA):** Use where **climate-informed science** data is available
  - CISA: Utilizing best-available, actionable data and methods that integrate current and future flooding to plan based on anticipated conditions over the life of an action
2. **500 Year Flood (0.2 Percent Flood):** Where CISA data is not available, but FEMA has mapped the 500-year floodplain, the FFRMS floodplain is the **500-year floodplain**
  - 0.2 percent-annual-chance flood elevation.
3. Where neither of the above are available, use the **freeboard value approach** to define the FFRMS floodplain
  - 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)



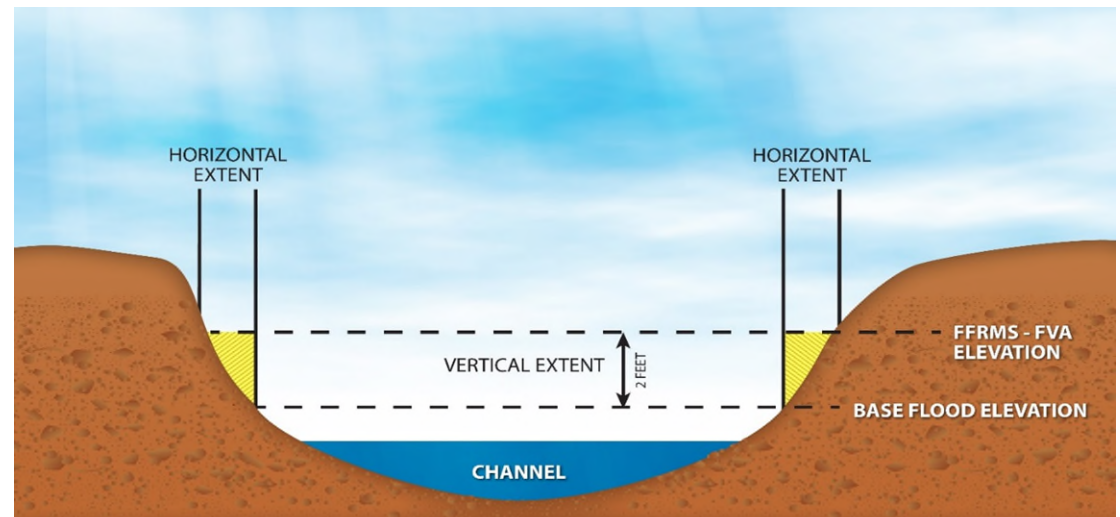
# CISA Mapping Resources



# 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



# Proposed Wetlands Analysis

## Step 1: Screening

- National Wetlands Inventory Mapper
- Visual Observation

## Step 2: More Information

- Required if Step 1 inconclusive (determination of HUD or RE)
- Sources: Other mapping resources and biological information, USFWS consultation, or biologist report

## Determination

- Identify wetland areas based on all information from Step 1 and, if applicable, Step 2

# 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?

# Discussion Questions

- What improvements would you suggest to the proposed rule?
- What is missing from the rule that HUD should address?
- What would you like to see HUD do to better support your efforts to develop resilient housing that is protected from flood risk?
- What information would be helpful to you in applying floodplain management and wetland protection requirements?

# Questions & Comments

- **Through WebEx meeting:**
  - To provide a written comment or question, click “Chat” in the lower right-hand corner of the Webex window.
- **Through the conference call:**
  - We will unmute attendees one at a time.
  - Press #2 to raise your “hand” via the conference line to be unmuted.
- **Note that the webinar (including spoken comments) will be recorded.**

## **After the webinar:**

- Submit all comments, recommendations, and questions electronically to:  
[EnvironmentalPlanningDivision@hud.gov](mailto:EnvironmentalPlanningDivision@hud.gov)