Re: [Docket No. FR-5717-P-01] Floodplain Management and Protection of Wetlands; Minimum Property Standards for Flood Hazard Exposure; Building to the Federal Flood Risk Management Standards

To Whom It May Concern:

On behalf of the National Association of Housing and Redevelopment Officials (NAHRO), we are pleased to offer the following comments in response to the proposed rule (FR-5717-P-01) entitled “Floodplain Management and Protection of Wetlands; Minimum Property Standards for Flood Hazard Exposure; Building to the Federal Flood Risk Management Standards,” published in the Federal Register on October 28, 2016. Formed in 1933, NAHRO represents over 20,000 individual and agency members, including public housing authorities (PHAs), redevelopment agencies and community development departments. Collectively, our membership manages over 970,000 public housing units, or approximately 83 percent of the entire public housing inventory, as well as 1.7 million Housing Choice Vouchers. In all, NAHRO members provide housing for more than 7.9 million low-income people and bring more than $1.5 billion Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) funding to their communities. NAHRO works to support policies that promote regulatory relief and provide local discretion and flexibility for housing and community development departments and agencies so that they may best meet the needs of their communities.

The rule is redundant due to existing flood risk standards

NAHRO believes the proposed rule’s additional elevation requirements for HUD assisted and financed structures is unnecessary and redundant because additional flood risk management standards are already required or encouraged by FEMA, the private flood insurance industry, and State and local ordinances and codes (as the rule’s preamble points out, Freeboard is already required by 20 states, plus the District of Columbia, and 596 localities). FEMA’s National Flood Insurance Program is widely used by communities across the nation and the program rules already require participating communities to adopt and enforce floodplain management ordinances that meet or exceed FEMA requirements. FEMA is the United State’s leading expert in disaster preparation, prevention, response and recovery, and for HUD’s floodplain regulation to go beyond the requirements established by FEMA is an unnecessary and administrative burden for communities and housing developers. Since local governing bodies have the greatest understanding of

December 20, 2016

Stephen W. Merritt, PHM, President; Carl S. Richie, Jr., NCC, NAHRO Fellow, Senior Vice President; Julie Brewen, Vice President-International Research and Global Exchange; Donna Brown-Rego, Vice President-Member Services; Donovan Duncan, Vice President-Community Revitalization and Development; Duane Hopkins, Vice President-Professional Development; Richard Leco, PHM, Vice President-Commissioners; Regina Mitchell, SPHM, PHM, Vice President-Housing; John F. Bohm, Acting Chief Executive Officer.

e-mail: nahro@nahro.org
web site: www.nahro.org
their community’s structural resiliencies and vulnerabilities to flooding, HUD should leave it to the State and local communities to adopt and enforce flood risk elevation standards that best reflect their community.

The rule would increase the cost of redeveloping affordable and public housing

Currently, there is a shortage of 7.2 million affordable and available rental units for the 10.4 million U.S. renter households that earn the bottom 30 percent of income in their communities. Many of HUD’s housing and community development programs exist to preserve and grow the nation’s affordable housing stock, often through the provision of housing rehabilitation. NAHRO is concerned that the proposed rule would discourage the rehabilitation of affordable housing and public housing properties since the costs of elevation cannot be offset by charging higher rents. According to our PHA members, raising an existing building by 2 feet is fraught with challenges and the cost would be unmanageable. NAHRO also echoes the concerns of other stakeholders that believe the proposed rule would increase construction costs and project delays for single family homes targeted for purchase using FHA programs intended to serve low- to moderate-income (LMI) homebuyers; while multifamily properties using FHA mortgage insurance programs would become infeasible as well.

The rule would hinder the accessibility and design of certain HUD-assisted properties

NAHRO expects the additional elevation required by the proposed rule to negatively impact the physical design and accessibility (specifically for individuals with disabilities and the elderly population) of substantially rehabilitated housing units that are located on small lots of land. A NAHRO member points out that many of the homes located in his State of Rhode Island are on “postage stamp” sized lots. Under the proposed rule, the additional 2 feet in structural elevation would require a handicap access ramp to be extended by an additional 24 feet, which would be near impossible to install for a housing rehabilitation that is located on a small lot. Additionally, rehabilitation projects located in areas where the base flood elevation (BFE) is already significantly high (e.g., over 10 feet) would experience challenges to the structure’s physical design and accessibility that would also be costly to address. If the property is located in a tidal situation, or along rivers, every extra foot would add even more cost.

NAHRO recommendations and request for clarifications

NAHRO believes that the proposed rule’s requirements are redundant due to existing flood risk management standards that are already required or encouraged by FEMA, the private flood insurance industry, and State and local ordinances and codes. However, if the proposed rule were to pass into regulation, NAHRO believes the rule should exempt HUD assisted or financed substantial rehabilitation projects that meet or exceed the State or local community’s flood risk elevation standard, prior to the rehabilitation. If a State or local elevation standard does not exist, the property’s BFE level would be considered for the exemption.

NAHRO also recommends a “grandfathering” provision be included in the rule that exempts projects currently in the pipeline, or already completed, from the rule’s requirements. NAHRO members have shared concerns over how the rule might affect existing properties that used Federal funds (e.g., CDBG or HOME) to build or rebuild, and whether noncompliance with HUD’s rule would affect the future sales of such properties or the ability to receive additional HOME funds at resale. The rule should also clarify at
what point during the timeline of construction/reconstruction properties would fall under the rule’s requirements.

As always, NAHRO is appreciative of the opportunity to comment on this important notice. If I can provide any additional information or clarification regarding our suggestions, please do not hesitate to contact me at jhsu@nahro.org.

Sincerely,

Jenny Hsu