

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

STATEMENT OF REGULATORY PRIORITIES

FOR FISCAL YEAR 2023

Introduction

The Regulatory Plan for the Department of Housing and Urban Development (HUD) for Fiscal Year (FY) 2023 highlights two of the most significant regulations and policy initiatives that HUD seeks to complete during the upcoming fiscal year. As the Federal agency that serves as the nation's housing agency, HUD is committed to addressing the housing needs of all Americans by creating strong, sustainable, inclusive communities, and quality affordable homes for all. As a result, HUD plays a significant role in the lives of families and in communities throughout America.

HUD is currently working to strengthen the housing market to bolster the economy and protect consumers; meet the need for quality affordable rental homes; utilize housing as a platform for improving quality of life; build inclusive and sustainable communities free from discrimination and transform the way HUD does business. Under the leadership of Secretary Marcia L. Fudge, HUD is dedicated to implementing the Administration's priorities by setting forth initiatives related to recovery from the COVID19 pandemic, providing economic relief to those HUD serves, advancing racial equity and civil rights, and tackling the climate emergency.

The rules highlighted in HUD's regulatory plan for FY 2023 reflect HUD's efforts to continue its work in building strong and sustainable communities, addressing the housing needs of all Americans, and providing for equal access to housing opportunities. Additionally, HUD notes that its Fall 2022 Semiannual Regulatory Agenda includes additional rules that advance the Administration's priorities, including rules to advance racial equity and civil rights and rules to provide economic relief to homeowners and renters.

Floodplain Management and Protection of Wetlands; Minimum Property Standards for Flood

Hazard Exposure; Building to the Federal Flood Risk Management Standard

On January 20, 2021, President Biden issued Executive Order 13990, "Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis," which declared the Administration's policy to bolster resilience to the impacts of climate change, and which directed all

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executive department and agencies to immediately commence work to confront the climate crisis.

Executive Order 14008, "Tackling the Climate Crisis at Home and Abroad," signed on January 27, 2021, noted that it is the Administration's policy to increase resilience to the impacts of climate change. HUD's proposed rule titled "Floodplain Management and Protection of Wetlands; Minimum Property Standards for Flood Hazard Exposure; Building to the Federal Flood Risk Management Standard" would improve the resilience of HUD-assisted or financed projects to the effects of climate change and natural disasters,

This proposed rule would revise 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 (Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input) (2015) and provide for greater flexibility in the use of HUD assistance in floodways under certain circumstances. Among other revisions, the rule would provide a process for determining the FFRMS Floodplain that would establish a preference for the climate-informed science approach (CISA), and it would revise HUD's floodplain and wetland regulations to streamline them, improve overall clarity, and modernize standards.

Aggregate Costs and Benefits

Executive Order 12866, as amended, requires the agency to provide its best estimate of the combined aggregate costs and benefits of all regulations included in the agency's Regulatory Plan that will be pursued in FY 2022. HUD expects that the neither the total economic costs nor the total efficiency gains will exceed \$100 million. Elevating HUD-assisted structures located in and around the FFRMS floodplain will lessen damage caused by flooding and avoid relocation costs to tenants associated with temporary moves when HUD-assisted structures sustain flood damage and are temporarily uninhabitable. These benefits, which are realized throughout the life of HUD-assisted structures, are offset by the one-time increase in construction costs, borne only at the time of construction.

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Statement of Need

The rule is part of HUD's commitment under HUD's 2021 Climate Action Plan. HUD committed to completing rulemaking to update 24 CFR part 55 of its regulations and implement FFRMS as a key component of its plan to increase climate resilience and climate justice across the Department, noting that

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low-income families and communities of color are disproportionately impacted by climate change. Additionally, HUD notes that affordable housing is increasingly at risk from both extreme weather events and sea-level rise, and that coastal communities are especially at risk.

HUD's existing regulations currently rely on Flood Insurance Rate Maps, which are critical resources when assessing flood risk, but are not intended to reflect changes in future flood risk influenced by a changing climate. This rule would ensure that HUD projects are designed with a more complete picture of a proposed project site's flood risk over time. Building to the standards discussed in this proposed rule would increase resiliency, reduce the risk of flood loss, minimize the impact of floods on human safety, health, and welfare, and promote sound, sustainable, long-term planning informed by a more accurate evaluation of risk that takes into account possible sea level rise and increased development associated with population growth.

Alternatives:

An alternative to promulgating this rule would be to maintain HUD's existing regulations governing floodplain management and the protection of wetlands. However, doing so would ignore the threats that increasing flood risks pose to life and taxpayer-funded property. Additionally, HUD would not be in compliance with Executive Order 13960 and implementing guidance if HUD did not revise its regulations. Other alternatives include higher additional elevation standards for HUD projects without using a CISA approach. HUD prefers the CISA approach because it provides a forward-looking assessment of flood risk based on likely or potential climate change scenarios, regional climate factors, and an advanced scientific understanding of these effects.

Risks:

This rule could increase construction costs for HUD projects where it leads to additional elevation requirements, thereby increasing the cost of constructing affordable housing. However, these costs are offset by the decreased damage caused by flooding a project will endure throughout its lifetime, and the avoidance of relocation costs when HUD-assisted structures sustain flood damage.

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TIMETABLE:

Action	Date	FR Cite
Proposed Rule	12/00/2022	

Regulatory Flexibility Analysis Required:	No
Small Entities Affected:	No
Government Levels Affected:	None
Federalism Affected:	No
Energy Affected:	No
International Impacts:	No

Violence Against Women Act Reauthorization Act of 2022 (VAWA 2022)

Through this proposed rule, HUD would amend its VAWA regulations to implement the requirements of the Violence Against Women Act ("VAWA") as reauthorized on March 15, 2022, under the Violence Against Women Act Reauthorization Act of 2022 ("VAWA 2022"). These revisions will assist in ensuring that survivors of domestic violence, dating violence, sexual assault, and stalking ("survivors") can access and maintain affordable housing as well as homeless assistance services. Specifically, HUD is focused on protecting survivors' housing rights, enforcing VAWA's requirements and protections, and providing access to safe, stable, and affordable housing for survivors.

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This proposed rule will seek to ensure that HUD's regulatory definitions account for the changes to VAWA's statutory definitions and are interpreted broadly enough to include the additional acts referred to in the VAWA 2022 reauthorization. For example, VAWA 2022 expands the definition of "domestic violence" by, in part, adding (as well as separately defining) the concepts of "economic abuse" and "technological abuse". Additionally, following the direction provided in VAWA 2022, this proposed rule will establish VAWA compliance review processes for VAWA-covered HUD programs ("covered housing programs"), and further address VAWA standards of compliance and standards of corrective actions, where compliance standards have not been met. VAWA 2022 also establishes substantive rights and protections for survivors, including anti-retaliation and anti-coercion requirements, and protections for individuals against being penalized for seeking emergency assistance or for criminal activity where they are a victim or otherwise not at fault. HUD has existing enforcement mechanisms that have been used to

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enforce VAWA rights and protections, but this proposed rule would provide HUD and survivors with direct enforcement authority of VAWA's housing rights.

Aggregate Costs and Benefits

Executive Order 12866, as amended, requires the agency to provide its best estimate of the combined aggregate costs and benefits of all regulations included in the agency's Regulatory Plan that will be pursued in FY 2022. HUD expects that the neither the total economic costs nor the total efficiency gains will exceed \$100 million. Unlike HUD's VAWA 2013 final rule that was published in 2016 ("VAWA 2013 rule"), which had costs that were "primarily paperwork costs," this rulemaking has fewer paperwork costs. The benefits of HUD's rulemaking include codifying in regulation the protections that VAWA 2022 provides to applicants and tenants of covered housing programs; strengthening the rights of survivors accessing and living in covered housing programs, including existing emergency transfer rights and new rights against retaliation and prohibition and the right to report crime from one's home; and improving and streamlining HUD's VAWA compliance monitoring and review processes. HUD grantees are already familiar with HUD's VAWA regulations as instituted by the 2016 final rule; this proposed rule will largely build on that regulatory framework and related forms and documents. HUD is also planning to publish a

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notice in the *Federal Register* in the Fall of 2022 that will provide initial guidance on VAWA 2022, its impact on VAWA -covered HUD programs, and HUD's planned implementation actions. HUD believes that grantees' prior experience with HUD's implementation of other VAWA reauthorization legislation and HUD's advanced notice will reduce costs by helping grantees to understand the new protections and requirements ahead of rulemaking.

Statement of Need

The rule is needed to conform HUD regulations with statutory standards and amendments, and to ensure consistency in application and enforcement of VAWA protections and requirements across HUD's covered housing programs. This proposed rule would consider HUD's VAWA 2013 rule published on November 16, 2016, and improve upon its framework and impose less regulatory burden.

Alternatives:

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HUD has no alternative to implementing the provisions of VAWA 2022. VAWA 2022 requires stakeholder consultation and rulemaking to establish VAWA compliance review processes, and to incorporate this process into existing compliance review processes, where possible. Therefore, HUD does not have the discretion to choose an alternative to rulemaking for compliance review processes. HUD has also determined that rulemaking is needed to implement new and revised statutory protections and requirements. Furthermore, prior VAWA reauthorizations were implemented through rulemaking.

Risks:

Previous and unfinished implementations of prior VAWA reauthorizations have resulted in challenges for grantees. HUD must seek to complete implementation of VAWA 2013, the Justice for All Reauthorization Act of 2016's amendments to VAWA's lease bifurcation provisions, and VAWA 2022, to fully implement changes to VAWA and clarify which requirements and changes HUD grantees are expected to comply with, and when those requirements and changes go into effect.

TIMETABLE:

Action	Date	FR Cite
Proposed Rule	10/00/2023	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: No

Federalism Affected: No

Energy Affected: No

International Impacts: No