



January 19, 2016

Regulations Division  
Office of the General Counsel  
Department of Housing and Urban Development  
451 7<sup>th</sup> Street, SW  
Room 10276  
Washington, DC 20410-0500

**Docket No. FR-5597-P-02**

**RIN 2577-AC97**

**Office of the Assistance Secretary for Public and Indian Housing, HUD.**  
**Instituting Smoke-Free Public Housing**

*Re: Comments on instituting smoke-free public housing proposed rule*

To Whom It May Concern:

The National Housing Conference (NHC) appreciates the opportunity to comment on the proposed rule to institute smoke-free policies in public housing. We welcome HUD's action to make public housing safer and healthier for residents while reducing property damage and operating costs. We offer several comments here in hopes of making the proposed rule more flexible and effective, especially for public housing authorities (PHAs) who have not undertaken smoke-free policies already and may encounter unexpected challenges.

Our recommendations for improving the rule, with additional detail below, in summary are that HUD should:

1. Give PHAs guidance on how to effectively engage residents to identify needs and promote acceptance of the policy.
2. Help PHAs build partnerships to provide smoking cessation resources.
3. Clarify how the rule applies to marijuana.
4. Give PHA's flexibility on e-cigarettes and hookahs.
5. Define and allow accommodations to the rule, especially for persons with disabilities and the elderly.

## I. About the National Housing Conference

The National Housing Conference represents a diverse membership of housing stakeholders including tenant advocates, mortgage bankers, nonprofit and for-profit home builders, property managers, policy practitioners, real estate professionals, equity investors, and more, all of whom share a commitment to safe, decent and affordable housing for all in America. We are the nation's oldest housing advocacy organization, dedicated to the affordable housing mission since our founding in 1931. We are a nonpartisan, 501(c)3 nonprofit that brings together our broad-based membership to advocate on housing issues.

## II. Benefits of smoke-free housing

The proposed smoke-free rule would make a successful voluntary program mandatory for all public housing. If successful, eliminating smoking would bring many benefits, which the proposed rule documents thoroughly:

- *Protection and sustainability of the federal investment in public housing.* The federal government has made substantial investments in public housing properties over many years, an investment worth maintaining. Eliminating smoking would address a major source of accidental property damage. Furthermore, public housing agencies (PHAs) would benefit from reduced turnover costs, freeing scarce resources to sustain the housing and serve residents.
- *Improved health and safety of the community.* Research has clearly demonstrated the harmful effects of second hand smoke, which this proposed rule addresses directly. Low income people disproportionately develop smoking related illnesses and this proposed rule would help to narrow the health divide.
- *Decreased risk of fire and savings incurred from reduced insurance premiums.* The rule anticipates that PHAs will benefit from reduced insurance premiums from the decreased risk of smoking-related fires. The savings incurred can be used to support smoking cessation partnerships and to fund other critical services.
- *Promotion of healthy life styles for residents.* There are significant health disparities and smoking rates based on one's income level. This rule is a significant first step in reducing health risks among low-income individuals. NHC applauds HUD for taking a non-paternalistic approach to smoking cessation in their resource manual. HUD should continue to make clear that they are not asking residents to quit smoking, but rather asking residents to not smoke on the property. Should residents choose to quit, adequate cessation resources should be available.

### III. Comments on the proposed rule

The overall approach in the proposed rule is sound. HUD defines the objective of smoke-free public housing clearly, sets appropriate deadlines for PHAs to achieve the objective, and builds on the experience of many PHAs that have already voluntarily undertaken smoke-free policies. However, because the past experience is all from voluntary action by PHAs, new challenges may arise when all PHAs are required to make their properties smoke-free. The initial voluntary approach likely attracted those agencies for whom the policy change was most in demand by residents and easiest to implement. As all PHAs undertake smoke-free policies, HUD should be prepared to allow them flexibility to accommodate the needs of residents and unexpected challenges of implementation.

With the need for flexibility as an underlying theme, we offer several specific comments.

- 1. Give PHAs guidance on how to effectively engage residents to identify needs and promote acceptance of the policy.** PHAs and private property owners who have made their properties smoke free observe that resident engagement is critical to success. Resident engagement should come in the form of surveys, public meetings, feedback options and one-on-one interactions with property staff. The cost burden of this activity is real, and HUD should allow PHAs maximum budgetary flexibility to meet this up-front cost, since the savings from smoke-free policies only come later.
- 2. Help PHAs build partnerships to provide smoking cessation resources.** Partnerships to provide education on the harmful effects of second hand smoke and to provide smoking cessation resources appear frequently in accounts of successful implementation of smoke-free policy. Community partners can act as an unbiased voice to educate community members on the harmful effects of second hand smoke and the benefits of smoking cessation. Partners may also bring their own resources for providing smoking cessation resources, mitigating the cost impact for the PHA. HUD should identify national organizations that can refer local partners and suggest other means for connecting locally.
- 3. Clarify how the rule applies to marijuana.** Several states and the District of Columbia have legalized or decriminalized marijuana use. As proposed, the rule only applies to lit tobacco products, not marijuana. However, marijuana poses similar smoke and fire safety concerns. We recognize the complications of conflicts between federal and state drug laws, and we understand that HUD has limited ability to resolve those issues. To the extent possible, HUD should provide PHAs with practical guidance on how to implement smoke-free policies in jurisdictions that allow legal marijuana use, building on the experience of PHAs in those areas that have already gone smoke-free.

4. **Give PHA's flexibility on e-cigarettes and hookahs.** Research on the harmful effects of e-cigarettes is rapidly evolving. Some view e-cigarettes as a harm reduction and smoking cessation tool. PHAs need to be sensitive to the cultural significance of hookahs and the need of some residents to find smoking alternatives. We therefore urge HUD to give PHAs the authority to decide how to address these options in ways appropriate to their specific circumstances.
5. **Define and allow accommodations to the rule, especially for persons with disabilities and the elderly.** In examples of early smoke-free adoption, many PHAs and private property owners note that residents who wish to smoke can choose to move. However, for some, public housing is the housing of last resort. People who are unable or unwilling to quit smoking may not have safe, decent, and affordable housing alternatives, so PHAs who need to make reasonable accommodations to the rule should have guidance in how to do so. Additionally, weather, mobility and safety concerns may make it impractical to leave the building to smoke, especially after dark. Indeed, one testimonial in HUD's guidebook specifically describes elderly residents lacking a safe, outdoor location in which to smoke due to inadequate street lighting by the locality. The rule or accompanying guidance should make it clearer what accommodations are possible for various property configurations and how best to allow residents safe alternatives.

#### IV. Conclusion

This proposed rule is an important step toward making public housing safer and healthier for residents while reducing property damage and operating costs. By providing further clarity on the issues outlined above and empowering PHAs to adapt smoke-free policies to the needs of residents, HUD can build on the success of the early adopters of smoke-free policies. To discuss any of these comments in further detail, please contact Kaitlyn Snyder, Policy Associate, National Housing Conference, (202) 466-2121 x250, [ksnyder@nhc.org](mailto:ksnyder@nhc.org).

Sincerely,

A handwritten signature in black ink that reads "Chris Estes". The signature is written in a cursive, flowing style.

Chris Estes  
President and CEO