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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5597-N-01]

**Request for Information on Adopting Smoke-Free Policies in PHAs
and Multifamily Housing**

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner and Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Request for Information.

SUMMARY: This notice seeks information and invites public comment regarding how HUD can best continue to support the implementation of smoke-free policies for both public housing and multifamily housing. In this regard, HUD is seeking information from the general public and stakeholders, including resident councils, advocacy groups, and housing providers, directly impacted by or involved with the implementation of smoke-free policies in both public housing and multifamily programs. Specifically, HUD is seeking information on best practices and practical strategies from housing providers who have implemented smoke-free policies, ideas for overcoming potential obstacles to implementing a smoke-free policy and methods for supporting residents, and housing providers in transitioning to smoke-free housing. Additionally, this notice requests input from housing providers that have decided not to implement a smoke-free policy and those impacted by that decision. This information will assist HUD to develop and disseminate additional guidance and resources to support public housing agencies (PHAs) and owners and management agents (O/As) who wish to implement smoke-free policies.

DATES: Comments Due Date: [Insert 30 Days after Publication in the Federal Register]

ADDRESSES: Interested persons are invited to submit comments responsive to this request for information to the Office of General Counsel, Regulations Division, Department of Housing and

Urban Development, 451 Seventh Street, SW, Room 10276, Washington, DC 20410-0001.

Communications must refer to the above docket number and title and should contain the information specified in the “Request for Comments” of this notice.

Submission of Hard Copy Comments. To ensure that the information is fully considered by all of the reviewers, each commenter submitting hard copy comments, by mail or hand delivery, should submit comments or requests to the address above, addressed to the attention of the Regulations Division. Due to security measures at all federal agencies, submission of comments or requests by mail often result in delayed delivery. To ensure timely receipt of comments, HUD recommends that any comments submitted by mail be submitted at least 2 weeks in advance of the public comment deadline.

Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the <http://www.regulations.gov> website can be viewed by interested members of the public. Commenters should follow instructions provided on that site to submit comments electronically.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable.

Public Inspection of Comments. All comments submitted to HUD regarding this notice will be available, without charge, for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the documents must be scheduled by calling the Regulations Division at 202-

708-3055 (this is not a toll-free number). Copies of all documents submitted are available for inspection and downloading at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Shauna Sorrells, Director, Public Housing Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW, Room 4232, Washington, DC, 20410-4000, telephone number 202-402-2769 (this is not a toll-free number) or Catherine Brennan, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 7th Street, SW, Room 6134, Washington, DC, 20410-4000, telephone number 202-708-3000 (this is not a toll-free number). Persons with hearing- or speech-impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION:

I. Background

In 2009, HUD issued PIH Notice 2009-21¹ in which it strongly encouraged PHAs to adopt smoke-free policies in some or all of their public housing units. In 2010, HUD issued Housing Notice 2010-21² in which it encouraged O/As to implement smoke-free housing policies in one or all of the properties they own or manage. Both notices stated that cigarette smoking is the number one cause of preventable disease in the United States and that secondhand smoke, also known as environmental tobacco smoke (ETS) and which may be involuntarily inhaled by nonsmokers, can migrate between units in multifamily properties, and cause respiratory illness, heart disease, cancer, and other adverse health effects for housing residents and employees. The notices also referenced studies that reviewed smoking-material fires and that concluded that smoking is the leading cause of

¹Available at: <http://www.hud.gov/offices/adm/hudclips/>.

² Available at: <http://www.hud.gov/offices/adm/hudclips/>.

fire deaths in multifamily properties.³

PIH Notice 2009-21 also referenced a case study produced by the Sanford Maine Housing Authority that concluded that smoke-free units are less expensive to turn over for new residents, due to a lack of damage to carpets, stains on walls and damage to other interior spaces and finishes caused by smoke and burn marks.⁴ PHAs and O/As may also be able to negotiate for reduced insurance rates based on decreased fire risks in smoke-free buildings, increasing the potential savings from instituting smoke-free policies.

As of January 2011, over 225 PHAs have adopted smoke-free policies in some or all of their units. HUD has also received a substantial amount of correspondence from residents, PHAs, O/As, governmental agencies and advocacy groups requesting additional guidance on how housing providers can implement smoke-free policies. On May 29, 2012, HUD in partnership with the American Academy of Pediatrics, the American Lung Association and the U.S. Department of Health and Human Services issued a “Smoke Free Housing Toolkit” to assist PHAs, O/As and residents of public and assisted multifamily housing who want safer and healthier homes. The “Smoke Free Housing Toolkit” contains information on health effects of smoking, a synopsis of the Surgeon General’s 2006 report of the harmful effects associated with exposure to secondhand smoke and other resources helpful for residents, and housing providers.

In light of the above, HUD is seeking public comment from the general public, PHAs, O/As, public housing residents, multifamily housing residents and other stakeholders to help inform HUD on how best to support housing providers and residents in their voluntary implementation of smoke-free policies while continuing to serve HUD’s core mission of housing low-income families. HUD

³ Citing U.S. Fire Administration, Residential Structure and Building Fires, (October 2008), www.usfa.dhs.gov/downloads/pdf/publications/Residential_Structure_and_Building_Fires.pdf.

⁴ Sanford Maine Housing Authority Case Study, <http://www.smokefreeforme.org/landlord.php?page=Save+Money%2C%3Cbr%3ESave+Your+Building>.

must carefully balance the interests of such policies with the need for low income residents to have decent, safe and affordable places to live.

II. Request for Information

HUD's purpose in requesting this information is to provide a meaningful opportunity for stakeholders as well as the general public to assist HUD in its development of useful and effective guidance to support the implementation of smoke-free policies in both public housing and multifamily housing. Therefore, in advance of issuing additional guidance and resources, HUD invites interested parties to provide detailed comments on all aspects of this issue. In addition, HUD is providing the following list of topics and questions to which it is seeking substantive responses, including rationales and explanations for the answers provided.

1. Benefits, Risks and Costs of Implementing a Smoke-Free Housing Policy

a. What benefits support the implementation of a smoke-free policy? For PHAs and O/As that have transitioned, were there any unanticipated quantifiable and qualitative benefits from implementing a smoke-free policy?

b. Should a minimum percentage of residents support implementing a smoke-free policy before the PHA or O/A implements such a policy? For PHAs and O/As that have transitioned, what percentage of residents wanted a smoke-free policy? How was this percentage determined?

c. What are the greatest risks or costs to implementing a smoke-free policy? For PHAs and O/As that have transitioned, what, if any, were the unintended consequences from implementing a smoke-free policy?

d. How can the benefits, risks and costs of a smoke-free policy be measured or tracked? For PHAs and O/As that have transitioned, are the benefits, risks and costs of implementing a smoke-free policy being measured or tracked and, if so, how and what are the results?

e. What costs might be incurred or monetary savings realized if the PHA and O/A transitioned to smoke-free housing? For example, are savings available on insurance rates or on unit turnover? How can these costs and savings be calculated? For PHAs and O/As that have transitioned, what were the actual short-term and long-term costs and savings resulting from the transition?

f. For PHAs and O/As that have considered implementing a smoke-free policy but have decided against doing so, what were the reasons for deciding not to move forward? Did the PHA or O/A that did not implement a smoke-free policy choose instead to make improvements or adjustments to housing units to reduce the migration of smoke between units, and if so, what were the associated costs?

2. Initial Policy Development and Implementation

a. What roles should PHA or O/A management, maintenance staff and resident representatives play in developing and implementing a smoke-free policy?

b. For PHAs and O/As that have implemented a smoke-free policy, what roles did residents, local groups (*e.g.*, Health Departments, health care providers or Federally Qualified Health Centers), smoking cessation and healthy living programs play in initiating, developing and implementing a smoke-free policy?

c. For PHAs and O/As that have implemented a smoke-free policy, beginning with the initial planning period, how long did it take to implement the smoke-free policy? Was the policy initiated by management or by residents? What were the steps in the process, and how long did each take? What steps were taken to engage residents, including residents with disabilities (*e.g.*, persons with vision, hearing or mobility impairments) and residents with limited English proficiency, before implementing a smoke-free policy?

d. How was the policy communicated to residents? How long after notifying the residents was

the policy implemented? Was that sufficient notice, and if not, what would be sufficient notice?

e. What are the major elements of a smoke-free policy? For PHAs and O/As that have implemented smoke-free policies, have any changes been made to the policy due to unanticipated consequences? If so, in what ways has the policy changed?

f. What are the most challenging obstacles to implementing a smoke-free policy and how might they be overcome? For PHAs and O/As that have implemented smoke-free policies, what were the most challenging obstacles encountered and how were they addressed?

g. Currently, HUD encourages PHAs to revise their lease agreements to reflect any new smoke-free policy and asks O/As to make these revisions in their house rules. Should the PHA and O/A be required to amend resident leases or house rules if they implement a smoke-free policy? If so, how and when should the leases or house rules be amended? For PHAs and O/As that have implemented smoke-free policies, were leases or lease addendums (house rules) amended?

3. Policy Enforcement

a. How should smoke-free policies be enforced? What should the consequences of violating the smoke-free policy be? How should the consequences of violating the smoke-free policy be communicated to residents? For PHAs and O/As that have implemented smoke-free policies, what are the consequences if residents violate the policy, what enforcement mechanisms are used and what are the barriers to using the available enforcement mechanisms? For PHAs or O/As that have pursued evictions for failure to comply with the smoke-free policy, have any residents been evicted, and if so, how many times had the resident violated the smoke-free policy before it was considered a serious violation of the lease or house rules?

b. Should residents who smoked before the implementation of the policy be allowed to continue to smoke until they move out or for a specific period of time (*i.e.*, grandfathering)? If existing

residents are “grandfathered” under the policy, how long should they continue to be allowed to smoke in their units?

c. Should residents affected by the smoke-free policy be offered other housing alternatives if the residents cannot or will not comply with smoke-free policies? For PHAs and O/As who implemented smoke-free policies, how were residents who were unable to leave their unit to smoke accommodated? For PHAs and O/As that have implemented a smoke-free policy, what are the greatest challenges to enforcing a smoke-free policy? What steps are being taken to overcome those challenges?

4. Resources for Policy Implementation

a. For PHAs, O/As and residents that have used the “Smoke Free Toolkit,” how was the toolkit utilized and are there additional resources that should be added?

b. What resources are available from the community or state to help residents transition to a smoke-free policy, and do they include cessation counseling or nicotine substitutes (*e.g.*, tobacco patches, lozenges, nicotine gum)?

c. For PHAs and O/As that have implemented a smoke-free policy, what resources would have been helpful, but were not provided? In cases where nicotine substitutes or other smoking cessation resources (e.g., counseling) were provided, were the resources successful in helping ensure the policy was followed? What, if any resources were obtained from tobacco control advocates or health care providers?

Dated: September 26, 2012

Sandra B. Henriquez
Assistant Secretary for Public
and Indian Housing

Carol J. Galante
Acting Assistant Secretary for Housing –
Federal Housing Commissioner

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