



Federal Register

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Part V

Department of Housing and Urban Development

**America's Affordable Communities
Initiative, HUD's Initiative on Removal of
Regulatory Barriers: Identification of HUD
Regulations That Present Barriers to
Affordable Housing; Notice**

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

[Docket No. FR-4890-N-01]

**America's Affordable Communities
Initiative HUD's Initiative on Removal
of Regulatory Barriers: Identification of
HUD Regulations That Present Barriers
to Affordable Housing**

AGENCY: Office of General Counsel,
HUD.

ACTION: Notice.

SUMMARY: In June 2003, HUD announced a new initiative, America's Affordable Communities Initiative. America's Affordable Communities Initiative focuses on breaking down regulatory barriers that impede the production or rehabilitation of affordable housing. As part of this initiative, HUD will, among other things, examine federal, state, and local regulations to identify those regulations that present significant barriers to the production or rehabilitation of affordable housing. The goal of these activities is to determine the feasibility of removing the barriers or reducing the burden imposed by the barriers. The purpose of this notice is to solicit public comment from HUD's program partners and participants, as well as other interested members of the public, on HUD regulations that address the production and rehabilitation of affordable housing and present barriers to the production and rehabilitation of affordable housing throughout America.

DATES: *Comment Due Date:* January 26, 2004.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410-0500. Comments should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying during regular business hours (weekdays 8 a.m. to 5 p.m. Eastern time) at the above address. Facsimile (FAX) comments are not acceptable.

FOR FURTHER INFORMATION CONTACT: Camille E. Acevedo, Associate General Counsel for Legislation and Regulations, Office of General Counsel, Room 10282, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410-0500, telephone (202) 708-1793 (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 Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION: In an effort to break down regulatory barriers that impede the production of affordable housing across our nation, in June 2003, HUD announced America's Affordable Communities Initiative (the Initiative). This departmentwide initiative will harness existing HUD resources to develop tools to measure and ultimately mitigate the harmful effects of excessive barriers to affordable housing. The Initiative has its roots in the Department's renewed emphasis to increase the stock of housing to meet our nation's housing demands. For example, in calendar year 2001, HUD announced the creation of the Regulatory Barriers Clearinghouse, a central, web-based repository of successful affordable housing endeavors. The Regulatory Barriers Clearinghouse offers state and local governments, nonprofits, builders, and developers alike the opportunity to share ideas and solutions for overcoming state and local regulatory barriers to affordable housing. The Regulatory Barriers Clearinghouse, like the Initiative, presents a public forum to facilitate the identification and resolution of regulatory barriers to affordable housing. The Regulatory Barriers Clearinghouse can be found at <http://www.regbarriers.org>.

One of the tasks of the Initiative will be to examine federal, state, and local regulatory barriers to affordable housing and determine the feasibility of removing the barriers or, at a minimum, reducing the burden created by the barriers. HUD, as the federal agency with responsibility for promoting and facilitating the production and rehabilitation of affordable housing, will first examine its own regulations. HUD has commenced the process of reviewing its own regulations that address the production and rehabilitation of affordable housing to identify those that constitute unnecessary, excessive, cumbersome, or duplicative departmental regulatory requirements. HUD intends to target those regulations that raise costs substantially or significantly impede the development or rehabilitation of America's stock of affordable housing.

For this task, HUD seeks the assistance of its current and former program participants and partners, which include states and local governments, public housing agencies, state finance agencies, nonprofit and for-profit organizations, and the general public. HUD's regulations may be found in title 24 of the Code of Federal

Regulations (24 CFR), or on the Internet at <http://www.access.gpo.gov/cgi-bin/cfrassemble.cgi?title=200324>.

Many HUD regulations reflect statutory requirements for which HUD has no authority to change. Other HUD regulations reflect statutory requirements for which HUD was authorized to exercise discretion, but only in the manner of implementation of the statute. Consequently, HUD may be able to revise the manner of implementation but not the underlying requirement. Nonetheless, HUD welcomes the identification of HUD regulations that impose barriers to the production or rehabilitation of affordable housing. Where HUD has no authority to change a regulation due to statutory requirements, the identification of the regulation may nevertheless assist HUD in identifying statutes that present barriers to affordable housing and for which a statutory amendment may be both appropriate and feasible. In these cases, HUD will consult with the appropriate Congressional committees to discuss statutory changes.

Although some regulations may impose or appear to impose barriers to the production or rehabilitation of affordable housing, they may nonetheless be necessary to protect the safety and security of certain housing residents or the surrounding communities. These regulations may establish requirements for housing that is decent, safe and sanitary (requirements that HUD has a statutory obligation to fulfill) or the regulations may establish accessibility standards for the elderly or persons with disabilities. Change to these types of regulations may not be possible. Even though HUD may be unable to change certain regulations, HUD nonetheless solicits comments on all regulations that present or appear to present barriers to affordable housing.

With the identification of HUD regulations that impose barriers to affordable housing, HUD also welcomes proposals or suggestions for how these regulations may be changed in those cases where it may be apparent that total repeal of the regulation is not feasible. For example, where application and approval processes are a necessary part of the production or rehabilitation of affordable housing, HUD is interested in comments on whether these processes are too cumbersome or too complicated and is equally interested to receive proposals on how these processes can be streamlined and simplified.

To submit comments in response to this notice, HUD requests that

commenters clearly identify the HUD regulation by its section number in 24 CFR (for example, 24 CFR 275.42). HUD also requests that the commenter identify the specific concerns or problems with the regulation. At the conclusion of the public comment period, HUD will review all regulations identified by commenters. HUD will

then issue a second notice that advises the public of the regulations identified by commenters, as well as HUD's plans for next steps in the ongoing process of addressing its own regulatory barriers to affordable housing.

Removal of regulatory barriers or reduction of the burden of regulatory barriers is a priority initiative for HUD,

and HUD welcomes the public's participation in this process.

Dated: October 28, 2003.

A. Bryant Applegate,

Senior Counsel and Director of America's Affordable Communities Initiative.

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