



HUD's Proposed Rule to Restrict Smoking in Public Housing: Talking Points

The U.S. Department of Housing and Urban Development's (HUD) proposed rule to restrict smoking in public housing¹ would provide many public housing residents with access to healthier, smoke-free housing. Under the rule, public housing agencies (PHAs) would be required to adopt policies prohibiting the smoking of tobacco products (such as cigarettes and cigars) in all indoor areas, including individual living units, common areas, and administrative office buildings, and in outdoor areas within 25 feet of those areas.²

This document is intended to give guidance to public health advocates, PHA representatives, residents, and others who are interested in commenting on the proposed rule. The bulleted items indicate possible areas where public comments might help HUD strengthen or enhance the proposed rule's provisions.

Encourage HUD to finalize strong smoke-free housing protections

- The proposed rule is an important first step to promoting health equity and improving overall public health. Smoke-free housing policies protect all residents equally from the harmful effects of secondhand smoke. Because drifting smoke between units cannot be adequately contained, the only way to effectively protect residents is to completely eliminate smoking in all indoor areas. To ensure that residents have access to safe and healthy housing, HUD should not allow any exceptions to a 100% smoke-free policy covering all indoor areas.
- Certain groups of people use tobacco or are exposed to secondhand tobacco smoke at higher levels than the general population. For example, people with mental illness or substance use conditions make up 25% of the general population but smoke 40% of all cigarettes.³ In addition, more than half (54%) of people living in public housing are either children or the elderly – populations that are especially susceptible to the effects of secondhand smoke.⁴ Smoke-free housing policies promote health equity by reducing tobacco-related health disparities among these groups.
- Novel tobacco products like e-cigarettes should also be included in HUD's smoke-free public housing rule. The safety claims of e-cigarettes have not been proven, and evidence is mounting that harmful chemicals in the liquids and secondhand aerosol could cause serious health complications, such as cancer.⁵ Studies also show that (1) those

exposed to e-cigarette aerosol may absorb nicotine at levels comparable to those exposed to conventional cigarette smoke, (2) e-cigarette aerosol may worsen respiratory conditions like asthma, and (3) there is a risk of thirdhand exposure to nicotine from e-cigarette aerosol deposits on indoor surfaces.⁶ E-cigarettes also pose a fire risk from overheating and improper charging.⁷ Finally, some e-cigarettes look similar to conventional tobacco products, such as cigarettes and cigars, and their use could create confusion for those enforcing the smoke-free policy. Because e-cigarettes are harmful to health, pose a risk of property damage, and could create problems in policy enforcement, they should be included in HUD's smoke-free public housing rule.

- Hookah or shisha smoking should also be included in HUD's final smoke-free public housing rule as well. The evidence is clear that the risks of smoking hookah tobacco are similar to the health risks of smoking cigarettes, including exposure to nicotine, carbon monoxide, and other cancer-causing chemicals.⁸ Even after passing through water, the secondhand smoke from the burning of charcoal and tobacco contains high levels of toxins that can cause serious health problems like cancer and heart disease.⁹ And because hookah smoking sessions typically last longer than the time it takes to smoke a cigarette, both hookah smokers and those in the vicinity of the smokers can be exposed to more secondhand smoke.¹⁰ Additionally, news reports of hookahs causing house fires in St. Paul, Minnesota,¹¹ Fort Collins, Colorado,¹² and Fargo, North Dakota¹³ indicate that the use of hookahs is a fire risk that could result in severe property damage. Prohibiting hookah tobacco smoking is consistent with HUD's goals to improve indoor air quality in public housing, benefit the health of residents and staff, reduce the risk of catastrophic fires, and lower overall maintenance costs.
- The smoke-free housing movement is part of a larger clean air movement. As residents experience more and more smoke-free public places and work environments, they demand and expect smoke-free environments at home, too. Not only have more than 600 PHAs already adopted smoke-free housing policies,¹⁴ but many other types of multi-unit housing properties are also voluntarily going smoke-free. Some communities in California even require by law that all or some multi-unit housing be smoke-free.¹⁵ The experience of thousands of smoke-free properties across the country means success stories and lessons learned are available to assist HUD with implementation and enforcement of smoke-free public housing. For example, the campaign in Portland, Oregon resulting in a 29% increase in the availability of both private and public smoke-free rentals between 2006 and 2009 has been documented and includes helpful tips about the implementation process that HUD could adopt.¹⁶ The experience of others also indicates that smoke-free housing is legal,¹⁷ good for business, and good for health.¹⁸

Submit your comments by January 19, 2016

Information and resources for drafting your comment, including a template comment and information about how to submit your comment, can be found at www.publichealthlawcenter.org/hudrule.

Notes

¹ Instituting Smoke-Free Public Housing, 80 Fed. Reg. 71,762 (proposed Nov. 17, 2015) (to be codified at 24 C.F.R. pts. 965-66), <http://www.regulations.gov/#!documentDetail;D=HUD-2015-0101-0001>.

² For a more detailed review of the contents of the proposed rule, see the Consortium fact sheet, [Smoke-Free Public Housing: HUD's Proposed Rule to Restrict Smoking in Public Housing](#).

³ Substance Abuse and Mental Health Services Administration, *The NSDUH Report: Adults with Mental Illness or Substance Use Disorder Account for 40 percent of All Cigarettes Smoked*. Rockville, MD: US Dep't of Health and Human Services, Substance Abuse and Mental Health Services Administration; 2013.

⁴ U.S. Dep't of Housing & Urban Dev., Non-Smoking Policies in Public Housing, Notice: PIH- 2012-21, <http://portal.hud.gov/hudportal/documents/huddoc?id=pih2012-25.pdf>.

⁵ Maciej Goniewicz et al., *Levels of Selected Carcinogens and Toxicants in Vapour from Electronic Cigarettes*, 23 TOBACCO CONTROL 133-9 (2014).

⁶ Americans for Nonsmokers' Rights, *Electronic (e-) Cigarettes and Secondhand Aerosol* (2015), <http://no-smoke.org/pdf/ecigarettessecondhand-aerosol.pdf>.

⁷ U.S. Fire Administration, *Electronic Cigarette Fire and Explosions* (2014), https://www.usfa.fema.gov/downloads/pdf/publications/electronic_cigarettes.pdf; see also Hazardous Materials: Carriage of Battery-Powered Electronic Smoking Devices in Passenger Baggage, 80 Fed. Reg. 66817 (proposed Oct. 30, 2015) (codified at 49 C.F.R. pt 175).

⁸ Centers for Disease Control and Prevention, *Hookahs* (2015), http://www.cdc.gov/tobacco/data_statistics/fact_sheets/tobacco_industry/hookahs/.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Raya Zimmerman, *5 Dogs Die in St. Paul House Fire Likely Started by Teen's Hookah*, PIONEER PRESS, May 11, 2014, http://www.twincities.com/localnews/ci_25741957/5-dogs-die-st-paul-home-fire-woman.

¹² Jason Pohl, *Mishandled Hookah Sparked May Apartment Fire*, COLORADOAN, July 26, 2015, <http://www.coloradoan.com/story/news/2015/07/25/pfa-mishandled-hookah-sparked-may-apartment-fire/30670277/>.

¹³ Erin Wencel, *Hookah Starts Fire in North Fargo Basement*, KVRR News, Nov. 26, 2015, <http://www.kvrr.com/news/local-news/hookah-starts-fire-in-north-fargo-basement-no-injuries-in-wahpeton-house-fire/36677270>

¹⁴ Instituting Smoke-Free Public Housing, 80 Fed. Reg. 71,762 (proposed Nov. 17, 2015) (to be codified at 24 C.F.R. pts. 965-66).

¹⁵ Americans for Nonsmokers' Rights, *U.S. Laws and Policies Restricting or Prohibiting Smoking in Private Units of Multi-Unit Housing* (2015), <http://www.no-smoke.org/pdf/smokefreemuh.pdf>.

¹⁶ Barbara Pizacani, et al., *Moving Multiunit Housing Providers Toward Adoption of Smoke-Free Policies*, 8 PREV. CHRONIC DIS. (2011).

¹⁷ Tobacco Control Legal Consortium, *Infiltration of Secondhand Smoke into Condominiums, Apartments and Other Multi-Unit Dwellings* (2009), <http://www.publichealthlawcenter.org/sites/default/files/resources/tclc-syn-condos-2009.pdf>.

¹⁸ Barbara Pizacani, et al., *Implementation of a Smoke-free Policy in Subsidized Multiunit Housing: Effects on Smoking Cessation and Secondhand Smoke Exposure*, 14 NICOTINE TOBACCO RES 1027-34 (2012).