

May 23, 2023

Office of General Counsel, Rules Docket Clerk (Room 5218)
U.S. Department of Housing and Urban Development
451 7th St. SW
Washington, D.C., 20410-0500

RE: Low & No-Cost Regulatory Proposals to Address Climate Change and Pollution in HUD-Assisted Homes

Dear Alexis & HUD Staff,

Last October, the Public Health Law Center (PHLC), along with a coalition of healthy housing advocates, submitted a petition for rulemaking asking HUD to institutionalize regulatory changes in support of safe, climate-resilient public and other HUD-assisted housing. Since then, coalition members have participated in multiple conversations with HUD staff to discuss the petition and unsafe conditions faced by residents every day. In those conversations, HUD conveyed concern about the time and resources necessary to move forward with the requested rulemaking. While we appreciate the difficulties that accompany regulatory proceedings, the policy changes we promote are growing more imperative by the day. With the health of residents at stake, HUD cannot afford additional delay.

The lethal effects of fossil fuel combustion and the resulting climatic changes are undeniable. This letter comes at a time when heat related deaths are increasing in the United States. In early April, President Biden declared a state of disaster in parts of California following a series of atmospheric rivers that left landslides and extreme flooding in their wake. According to the Department of Health and Human Services, abnormally intense winter rain and snowstorms have placed approximately 146 million Americans at risk of flooding. Consequently, mold and pest hazards are also on the rise. With the growing likelihood of extreme conditions, safe, weatherized, and decarbonized homes are more important than ever.

In the United States, Black, Hispanic, and low-income communities are most vulnerable to extreme weather and pollution, in part because of reduced access to quality housing. Because HUD programming serves these communities at disproportionate rates, the agency must address weather and pollution risks with urgency. Accordingly, the original petitioners as well as additional supporters listed at the end of this letter, have developed a streamlined list of no- and low-cost policy proposals that HUD can undertake immediately to improve housing conditions. Importantly, though these

proposals reference and overlap with the citizen petition for rulemaking PHLC submitted on October 25, 2022, they are in addition to and separate from the petition.

Policy Proposals

The following policy proposals are based on the redlined regulations from the petition we submitted last October. The letters under the Proposal column align with the lettered proposals in Part VII of the petition. Proposals modified with “Lite” have been altered to lower the short-term costs associated with investing in healthy homes for public housing tenants and other HUD-assisted residents. Additional details and justifications for these proposals can also be found in the petition.

Funding for Health & Resiliency

Proposal	Description
H-Lite	Beginning January 1, 2025, disallow replacement of fossil fuel-fired systems and appliances with another fossil fuel-fired system or appliance in public housing where the financial cost of electrification is comparable ¹
I	Extend the allowable financing term for Capital Fund expenditures to 30 years; Allow climate, efficiency, and electrification spending to exceed 33% of future funding
O	Extend on-bill financing to a 30-year payback period and codify qualified income protections for community solar credits
V	Explicitly allow HOME funds to be used for electrification and renewable installation
W	Explicitly allow HOME funds to be used for healthy home visits (from any provider) and remediating health risks identified during those visits
Z	Explicitly allow CDBG funds to be used for electrification projects in affordable housing, public housing, and community centers serving under-resourced neighborhoods
AA-lite	Explicitly allow HTF funds to be used for electrification projects in public housing and affordable housing

¹ We suggest defining cost comparability as wherever total installation and operation costs for an electric system or appliance is within 5 percent of total installation and operation costs for a fossil fuel alternative. While this proposal includes a delayed effective date, HUD should announce this guidance as soon as possible to allow PHAs and other providers time to prepare for electrification.

Grant Restrictions

Proposal	Description
T-lite	Require jurisdictions to use best available science to account for foreseeable disaster risk in Consolidated Plans
X-lite	Require all electric HOME builds and equipment replacement where cost is comparable to building with fossil fuel infrastructure; Explicitly allow HOME funds to go toward excess cost of electrification
Y-lite	Require all electric CDBG builds and equipment replacement where cost is comparable (within 5%) to building with fossil fuel infrastructure; Explicitly allow CDBG funds to go toward excess cost of electrification
BB-lite	Require all electric HTF builds and equipment replacement where cost is comparable (within 5%) to building with fossil fuel infrastructure; Explicitly allow HTF funds to go toward excess cost of electrification

Planning Requirements

Proposal	Description
D	Require PHAs to account for how they plan to phase fossil fuels out of public housing portfolios in their 5-year Action Plans
E	Standardize the energy audit process to make uniform with Weatherization Assistance Program

Reducing Energy Burden

Proposal	Description
M	Create an exception to the utility consumption incentive for energy increases stemming from fuel switching

P-lite	Ensure utility allowance schedules include renewable systems and energy efficient electric appliances; Make methodologies used to design utility schedules publicly available
Q	Prohibit consumption surcharges for residents who are remediating temperature or air quality deficiencies with electric appliances

RAD Requirements

Proposal	Description
CC-lite	Under RAD, require all-electric builds and rehabs where cost is comparable (within 5%) to building with fossil fuel infrastructure

Workforce Development

Proposal	Description
New ²	Require that PHAs as well as RAD participants and HOME and HTF recipients commit to good faith efforts to hire certified minority-owned businesses, women-owned businesses, businesses owned by disadvantaged persons, and businesses with institutionalized programs dedicated to hiring and training disadvantaged people over the course of the funded project

We request that HUD work to institutionalize the spirit of the streamlined changes outlined above using whatever means the agency finds suitable until adequate funds are made available to finance the petition’s remaining requests. Notably, any response HUD may make to this letter neither detracts from nor substitutes for the agency’s obligation to fully answer the original citizen petition by detailing in writing the official justification as to whether HUD will or will not implement each of the petition’s regulatory proposals. Again, we request that HUD expeditiously open a public comment

² This proposal was not included in the original petition. It was designed in response to community advocates the petitioners have met since the petition was submitted and is designed to retain wealth and employment benefits within the communities where HUD-assisted projects are being developed. This measure is directly aligned with HUD’s obligations under Justice40. *See Justice40: A Whole-of-Government Initiative*, <https://www.whitehouse.gov/environmentaljustice/justice40/> (last visited May 1, 2023).

period to allow health, housing, and environmental advocates to appraise the petition's proposals (and, if necessary, the proposals above).

As illustrated by the suite of initiatives the Biden Administration unveiled last week,³ holistic policy change is essential to protecting resident health and ensuring federal dollars are supporting healthy housing solutions. While the Administration's announcement is an exciting step toward health equity, neither the Green and Resilient Retrofit Program nor HUD's improved energy efficiency code will secure much needed health and affordability benefits for public housing residents in existing buildings. The changes proposed by this letter and the petition were designed to keep public housing residents from being left behind and to ensure all HUD residents have decent, safe, and sanitary housing. Therefore, we ask that HUD immediately take the steps requested above.

Respectfully,
PHLC & Undersigned Partners

³ The White House, *FACT SHEET: Biden-Harris Administration Announces New Actions and Investments to Lower Energy Costs, and Make Affordable Homes More Energy Efficient and Climate Resilient for Hard-Working Families*, <https://www.whitehouse.gov/briefing-room/statements-releases/2023/05/11/fact-sheet-biden-harris-administration-announces-new-actions-and-investments-to-lower-energy-costs-and-make-affordable-homes-more-energy-efficient-and-climate-resilient-for-hard-working-families/> (May 11, 2023).

