



Issue Fact Sheet

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ADMINISTRATIVE & REGULATORY BURDENS

Background

Housing lays the foundation for social, economic and community development, but federal legislation and regulations in seemingly unrelated areas can also influence the strength and sustainability of the apartment industry. Government action—or inaction—on a diverse range of key issues stands to adversely affect the day-to-day management of apartments by increasing costs, adding liability risk, and creating ambiguities with serious health and legal implications.

Recently federal agencies, including the Department of Housing and Urban Development (HUD), Environmental Protection Agency (EPA), and Federal Reserve, have issued a flood of regulatory rules and notices on topics ranging from housing finance, energy and the environment. While the new regulations may be well intentioned, many will lead to costly mandates that will divert resources not only from the production and operation of multifamily housing but, ultimately, job creation. In fact, according to research commissioned by the Small Business Administration's Office of Advocacy, the total cost of federal regulations in 2008 topped \$1.75 trillion, or \$10,585 per employee for firms with fewer than 20 employees.

NMHC/NAA recognize the need for regulations, but urge agencies to insist that new rules have demonstrable benefit that justify the cost of compliance. Second, federal agencies should be aware that broad-stroke regulations often have disproportionate effects on various industries; therefore, those rules and regulations affecting commercial real estate should reflect the industry's business and operational structure. And third, all regulations must be grounded in fact and rely on the latest scientific and/or economic evidence.

Creating a Consistent and Equitable Regulatory Environment

NMHC/NAA remain focused on mitigating existing regulatory burdens and opposing new regulations that will significantly increase the cost of providing quality housing without commensurate offsetting benefits. Currently we are seeking action to rescind or modify recently imposed or expected rules or notices in these three key areas.

- **FHA Multifamily Loan Rules.** As FHA has struggled to deal with historically high demand for multifamily financing, it has instituted repeated changes to its underwriting criteria and its loan processing procedures. Most recently it issued costly requirements for large loans that changed the rule midstream for borrowers, many of whom have had to wait upwards of a year to get their loans processed. Lawmakers should urge HUD to incorporate greater flexibility in its policies and procedures including appropriate implementation time periods for new rules and regulations as well as grandfathering those loans already in the pipeline.
- **HUD Bed Bug Guidance.** Last August, HUD issued a Housing Notice (policy guidance for owners and housing authorities) that addressed the issue of bed bugs on federally assisted and insured properties. The guidance (which was issued outside of the regular rulemaking process and thus not subject to notice and comment by affected parties) was overly broad in scope, inconsistent with best practices for controlling the spread of bed bugs and insufficiently dealt with the issue of property expenses related to remediation. We have urged HUD to rescind this defective document; HUD has said that they are revising it in light of our comments and will likely remove federally insured housing from the scope of the guidance. More generally, we have asked Congress to expand research efforts to target solutions to control the spread of bed bugs, provide reliable information on best practices for housing providers and consumers and to work with the apartment industry to identify low interest loans, grants and other options to assist owners in dealing with catastrophic bed bug infestations.
- **Overly Expansive Stormwater Rules.** The Environmental Protection Agency (EPA) is soon expected to issue new, significantly expanded rules for stormwater management for already developed and redeveloped properties. While EPA currently regulates stormwater through a variety of means, including requiring permits for properties under construction, the new rules would extend regulation beyond the construction period and impact ongoing

building operations and maintenance. The regulations are expected to sharply increase municipal water fees and require the use of expensive and difficult to maintain green infrastructure and low impact development techniques. Before the Agency issues any new stormwater regulation, current law requires that the Agency provide a report to Congress outlining its findings regarding the necessity for additional regulation. EPA has delayed in providing this report to Congress despite having received inquiries from Members of Congress regarding the status of the report. NMHC/NAA believe this exceeds EPA's statutory authority and the Agency should not proceed without first allowing congressional review as required by the Clean Water Act.

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