May 27, 2025

Abigail Slater
Assistant Attorney General
Antitrust Division
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington DC 20530

RE: Request for Comments: Anticompetitive Regulations, Docket No. ATR-2025-0001

Dear Assistant Attorney General Slater:

We are writing on behalf of the members of the National Apartment Association ("NAA"), the National Multifamily Housing Council ("NMHC") and the Real Estate Technology and Transformation Center ("RETTC") who represent the $3.9 trillion apartment industry and its more than 40 million residents. We submit these comments in response to the Anticompetitive Regulations Task Force of the Department of Justice's ("DOJ") invitation to identify state and federal laws and regulations that raise barriers to competition. We appreciate this opportunity to work collaboratively with DOJ and the Trump Administration to advance our housing priorities of bolstering the nation's housing supply, lowering costs and protecting the long-term viability of rental housing.

United States antitrust laws are intended to protect competition in the marketplace. They provide strong incentives for businesses to compete and innovate, while protecting their ability to do so fairly and efficiently. When government policies are aligned with these goals, markets operate to the benefit of American consumers. However, excessive government regulation impedes the intent of antitrust laws. The result is burdensome compliance costs and inefficiencies that sap housing providers of resources that could otherwise be devoted to improving America's housing. This harms the millions of Americans who depend on rental housing, and deters the rapid investment, innovation and development critical to the growth and success of the rental housing industry. Indeed, recent empirical research confirms that regulation accounts for an average of 40.6 percent of multifamily development costs and adds significantly to the costs of operating multifamily rental housing, negatively impacting all aspects of the industry, including rental housing affordability for millions of Americans.[1]

This Task Force rightly acknowledges the particular stresses facing the nation's housing sector. According to recent research commissioned by NMHC and NAA, **the U.S. needs to build 4.3 million new apartment homes by 2035 to meet the demand for rental housing**.[2] This includes an existing shortage of 600,000 apartments stemming from underbuilding due in large part to the 2008 financial crisis. Further, underproduction of housing has translated to higher housing costs – resulting in a consequential loss of affordable housing units (those with rents less than $1,000 per month), with a decline of 4.7 million affordable apartments from 2015-2020. In fact, the total share of cost-burdened apartment households (those paying more than 30% of their income on housing) has increased steadily over several decades and reached 57.6% in 2021.[3] During this same period, the total share of *severely* cost-burdened apartment households (those paying more

[1] "NMHC-NAHB Cost of Regulations Report," NMHC and Nat'l Ass'n of Home Builders (June 2022), https://www.nmhc.org/research-insight/research-report/nmhc-nahb-cost-of-regulations-report/. See also "Behind the High Cost of Rent: How Local Rules and Regulations are Increasing Expenses for Multifamily Operators," Daniel Shoag and Issi Romem, MetroSight (Feb. 2025), www.metrosight.com/articles/behind-the-high-cost-of-rent.

[2] "Estimating the Total U.S. Demand for Rental Housing by 2035," Hoyt Advisory Services (2022), https://www.weareapartments.org/.

[3] "NMHC tabulations of 1985 American Housing Survey Microdata," American Housing Survey, U.S. Census Bureau (2021).

than half their income on housing) increased from 20.9 to 31.0%.[4]

However, it is becoming increasingly difficult to build housing that is affordable to a wide range of income levels. Ill-timed, anticompetitive or unduly burdensome laws, policies and regulations at all levels of government prevent us from delivering the housing our country so desperately needs. As you stated in your first address as the Assistant Attorney General for the Antitrust Division, excessive government regulations deprive "businesses of their economic freedom and make[ ] our economy less dynamic and prosperous."[5] While antitrust enforcement should function as a "scalpel" to address specific harms to competition, broad ex ante regulations instead function as a "sledgehammer" that distorts and harms markets.[6]

As the Administration and this Task Force explore regulatory barriers to a competitive market, development of housing and growth in the economy, NMHC, NAA and RETTC would like to highlight specific policies that harm housing production, burden property ownership and operations and ultimately raise costs for America's renters.

Rent Control

In an effort to respond quickly to rising housing costs, policymakers at all levels of government have turned to failed rent regulation policies, most commonly known as rent control, which impose government-enforced limits to the price that can be charged for market rate rental housing. These policies also take the form of rent stabilization or rent caps, which limit the amount that rent can be increased each year.

History has shown that rent control:

- ***Exacerbates Housing Shortages.*** Rent control policies reduce the number of new units built and limit the overall supply of rental housing in a community.[7] In San Francisco, rent control reduced the supply of housing by 6% and was responsible for a more than 5% increase in rental prices.[8] In 2024, 80% fewer housing units were built in St. Paul, Minnesota following passage of the city's rent control laws compared to the previous three-year average, according to a *MinnPost* analysis.[9]
- ***Fails to Appropriately Tailor Assistance to Those in Need.*** Rent control and rent stabilization policies do a poor job at targeting beneficiaries, resulting in an inequitable distribution of benefits that hurts renters in need. In 2022, researchers found that renters in St. Paul who gained the most from the recently implemented rent control policy had higher incomes, while those who lost the most had lower incomes.[10]
- ***Ultimately Drives Up Rents.*** As rent control stifles new development and supply remains inadequate, renters are faced with fewer and more expensive housing options in communities of their choosing. Research suggests that rent control ordinances make rental units more expensive in the overall market rather than less.[11]

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[4] *Id.*

[5] Assistant Att'y General Gail Slater Delivers First Antitrust Address at University of Notre Dame Law School: The Conversative Roots of America First Antitrust Enforcement, Gail Slater, Assistant Att'y Gen., Antitrust Div., U.S. Dep't of Justice (Apr. 28, 2025).

[6] *Id.*

[7] "The Effect of Rent Control Expansion on Tenants Landlords, and Inequality: Evidence from San Francisco," Rebecca Diamond, McQuade and Qian (Sept. 2019), https://www.aeaweb.org/articles?id=10.1257/aer.20181289.

[8] *Id.*

[9] "St. Paul Walks Back Rent Control," Minnesota Reformer (May 8, 2025), https://minnesotareformer.com/2025/05/08/st-paul-walks-back-rent-control/.

[10] "Robbing Peter to Pay Paul? The Redistribution of Wealth Caused by Rent Control," Kenneth R. Ahern and Marco Giacoletti, (May 2022), https://www.nber.org/papers/w30083.

[11] "An Analysis of Rent Control Ordinances in California," Beacon Economics, Prepared for the California Apartment Ass'n, (Jan. 2016), https://caanet.org/u/2016/02/Jan2016_Rent_Control_Study.pdf.

- ***Discourages Housing Investment.*** Rent control disincentivizes necessary housing investments across markets, particularly in communities that already have few affordable options. A 2022 survey showed that 87.5% of multifamily developers said that they avoid building in jurisdictions with rent control in place.[12]

Rent control neither builds new homes, nor contributes to housing infrastructure. It overlooks the fundamental reason for rising housing costs, which is the nation's undersupply crisis. Time and again, these policies have proven to reduce the capital needed to boost the supply of housing, expedite the deterioration of existing rental housing and raise housing costs for those who can least afford it. Rent control is a fatally flawed housing policy and this Administration should instead work with housing providers on proven solutions to boost housing supply and improve affordability.

Protect Housing Providers' Ability to Engage in Necessary Business Practices

The nation's housing providers support the goals of the Fair Housing Act ("FHA") and are fully committed to creating communities that provide equal housing opportunity for all. However, continued uncertainty and confusion related to disparate effects, or disparate-impact, liability under the FHA has resulted in operational, legal and broad business challenges for the housing industry.

On April 23, President Trump signed an Executive Order to curtail federal reliance on disparate-impact liability and, among other efforts, directed identification of "all existing regulations, guidance, rules, or orders that impose disparate-impact liability."[13] Pursuant to the Order, we urge recission of the U.S. Department of Housing and Urban Development's ("HUD") 2023 "Reinstatement of HUD's Discriminatory Effects Standard" Rule and reinstatement of the Trump Administration's 2020 Rule on "Implementation of the Fair Housing Act's Disparate Impact Standard" (85 FR 60288)("2020 Rule").

In 2013, HUD issued its first disparate impact rule ("2013 Rule") establishing the agency's framework for liability under the FHA for neutral housing policies that nonetheless have discriminatory effects on a protected class. The Supreme Court subsequently issued a decision in *Texas Department of Housing & Community Affairs v. Inclusive Communities Project, Inc.* ("*Inclusive Communities*"), 576 U.S. 519 (2015), which established important guardrails around disparate-impact liability. The 2020 Rule formalizes the framework for assessing whether a given practice violates the FHA even when there is no intent to discriminate, and importantly, acknowledges the limitations of disparate impact liability imposed by courts subsequent to the development of the 2013 Rule.

However, in 2023, the Biden Administration abandoned the 2020 Trump Rule and reinstated the 2013 Rule. During the rulemaking process, we expressed concern that reversion to the 2013 Rule would do little to address the needs of housing providers and America's renters or improve the predictability and results of fair housing efforts. The reinstated Rule fails to acknowledge superseding legal outcomes, undermines the use of necessary business practices and imposes new obstacles for housing providers.

HUD should now reinstate the 2020 Rule, which aligned the rule with the Supreme Court's ruling in *Inclusive Communities* and other legal action and included important safeguards for housing providers against litigation stemming from legitimate, nondiscriminatory policies. While the rental housing industry strongly supports fair housing laws, we continue to caution that an overly expansive view of disparate impact theory could create liability for basic housing development and operational practices and jeopardize necessary business practices like resident screening.

[12] *Id.* at 1.

[13] "Restoring Equality of Opportunity and Meritocracy," Executive Order, White House (April 2025).

HUD should also rescind and revise all guidance and memoranda that rely on the current disparate impact rule including the "Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions" (April 2016) and the "Implementation of the Office of General Counsel's Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions" (June 2022).

Review and Reform Rules and Regulations Pertaining to the Section 8 Housing Choice Voucher Program ("HCV")

The public-private Section 8 HCV program could be the nation's most effective affordable housing and community development tool. However, it is plagued with inefficiencies, onerous regulatory requirements and a flawed funding system. We urge the Administration to perform a thorough review of the HCV program, remove the barriers to utilization and incentivize greater voluntary private sector participation. The Administration should also recognize that so-called "source of income" mandates, which have the effect of requiring private housing providers' participation in the HCV program, are not the right policy approach to improve housing choice and access for renter households receiving HCV subsidies.[14]

While there are many improvements that could be made to the HCV program that would expand participation by housing providers, the only way to truly boost the program's success is to greatly increase the supply of housing available at the price point the program can pay. The HCV program is also hindered by burdensome program requirements that add unnecessary roadblocks to leasing and tenancy and inconsistent program management by more than 2,200 public housing agencies ("PHAs") across the U.S. is also a major factor. Challenges include:

- Rents and rent increases that often do not keep pace with market rates;
- Payment delays, inconsistent disbursements, and sometimes arbitrary withholdings; and
- Ongoing inspections-related challenges that result in holding rental units unoccupied.

Unfortunately, these factors threaten the solvency of rental communities across the country and largely contributed to 55,000 housing providers leaving the program from 2010-2020, ultimately hurting renters who rely on HCV assistance.[15] Specific reforms could include limiting PHA's discretion to approve or deny rent or rent increase requests that already meet "rent reasonableness" standards, requiring PHAs to disburse "timely payment" within 18 days of their due date for tenants, employing dedicated landlord liaisons, creating risk mitigation funds and housing provider incentives and streamlining the inspection process. Overall, HUD must enforce uniform standards for PHAs that administer the HCV program. Current Section 8 Management Assessment Program ("SEMAP") standards are insufficient. We also recommend establishing a national pilot program transitioning the housing assistance payment system to an electronic benefits transfer.

Return Housing and Eviction Policy Back to State and Local Governments

The Coronavirus Aid, Relief, and Economic Security ("CARES") Act established a temporary 120-day moratorium on evictions due to nonpayment of rent, applicable to federally-backed and federally-assisted housing. This section of the CARES Act also instituted what should have been a temporary extension of states' required notice, requiring housing providers to notify covered residents 30 days before filing for eviction after the moratorium ended on July 24, 2020.[16] This stands in contradistinction to states' average required "notice-to-vacate" of 6 days.

[14] See HUD Information on Source of Income Protections, including resources on "Local" and "Public Campaigns," https://www.hud.gov/helping-americans/housing-choice-vouchers-income-protect.

[15] "Briefing from HUD on Boosting Landlord Voucher Acceptance," Dep't of Hous. and Urban Dev. Office of Policy Dev. and Research, A (May 16, 2023), https://www.huduser.gov/portal/pdredge/pdr-edge-featd-article-051623.html (link since removed).

[16] See 15 U.S. Code § 9058 (c), temporary, federal notice-to-vacate language, https://www.law.cornell.edu/uscode/text/15/9058.

Throughout the pandemic, rental housing professionals helped their residents remain stably housed despite economic hardships. The federal, COVID-19 public health emergency has ended, and it is important that federal policy properly reflects Congress' intent that the CARES Act's 30-day notice-to-vacate requirement be terminated. Eviction policies should be returned to the state and local governments where they can be more effectively administered in accordance with community needs and jurisdictional requirements.

We urge President Trump's support for the Respect State Housing Laws Act (H.R. 1078/S. 470) which strikes the temporary notice-to-vacate language from the federal CARES Act, removing the root cause of enforcement ambiguity. We also urgently need the Administration's help to rescind any rules or policies that enshrine or expand the applicability of the CARES Act notice-to-vacate and issue guidance clarifying that this temporary notice extension ended in 2020. Recommended actions across agencies including the U.S. Department of Agriculture, HUD and Federal Housing Finance Agency are detailed in the appendix below.

Onerous Energy and Environmental Requirements and Building Codes

We are committed to delivering high-performing and quality homes nationwide and support efforts that help us improve the energy and environmental profile of our buildings. However, recent changes to energy efficiency and environmental regulations have failed to balance the nation's housing affordability and supply needs and risk undermining efforts to address America's acute housing challenges.

In particular, building codes and standards are an essential component of housing construction. However, onerous code requirements are a major barrier to new housing development and renovation. In fact, in our previously cited research on the cost of regulation in housing development, the highest average regulatory cost in multifamily development is the result of changes to building codes over the past 10 years (11.1 percent of total development costs).[17] In a separate survey, 89% of respondents agreed or strongly agreed that building code requirements in general impact the cost and viability of construction projects.[18]

While we support cost-effective and technically-feasible codes and standards, building codes have increasingly been used to advance policy goals unrelated to building safety or basic building performance requirements. In particular, the previous Administration sought a more expansive federal role in the use of building energy codes, principally as a tool to advance climate change goals. This included an aggressive push for the adoption of specific building energy codes and standards, including "zero energy" codes that would generally prohibit the use of fossil fuels in buildings.

In a recent survey, nearly 70 percent of respondents (66%) agreed or strongly agreed that compliance with energy performance and efficiency requirements caused significant challenges for their business and 63% of respondents indicated challenges with electrification or net-zero emissions-related provisions.[19] About half of respondents (49%) specifically indicated that their business would be less likely to develop, build or invest in a project where the latest energy code edition was required.

The development, adoption and implementation of building codes is a complex process with significant impacts on housing construction and affordability. While private actors and state and local governments are primarily responsible for these efforts, the Department of Energy ("DOE") has certain statutory responsibilities related to

[17] *Id.* at 1.

[18] "NMHC Pulse Survey: Analyzing the Impact of Building Codes on Rental Housing Development & Affordability," NMHC (May 2024) https://www.nmhc.org/research-insight/survey/nmhc-pulse-survey-analyzing-the-impact-of-building-codes-on-rental-housing-development-affordability/.

[19] *Id.*

the analysis, development and provision of technical assistance for building energy codes.[20] However, this authority is limited and is carefully tailored to ensure that states and localities have power over building code adoption and implementation in their jurisdictions.

Nevertheless, there has been a push to use federal policy efforts and significant federal funding opportunities to enforce specific codes through federal program participation or induce jurisdictional adoption of particular energy codes and standards. In fact, the previous Administration's use of grants and other funding to impose specific energy codes was an expensive endeavor, with the DOE spending hundreds of millions of dollars to promote codes that mandate expensive construction requirements, restrict or otherwise influence fuel choices and force property owners to fund electrification, electric vehicle charging and other features that may not be compatible with the actual market conditions of a project or area. This included $225 million in funding from the Infrastructure Investment and Jobs Act to implement updated building energy codes,[21] and $530 million in funding from the Inflation Reduction Act to for states, territories and local governments to adopt the latest model energy codes, zero energy codes or innovative codes.[22]

We encourage the Administration to reexamine federal policies, programs and grant opportunities that establish one-size-fits-all energy code requirements or incentivizes jurisdictions to adopt specific code editions that compel use of particular fuel sources or unduly burden housing costs.

In addition, our organizations have long been engaged in the rulemaking process for DOE appliance efficiency standards, ensuring that the unique needs of the apartment industry are recognized. Energy and water efficient appliances and fixtures are important to housing providers and our residents, and our apartment homes reflect consumer preferences and expectations for appliance operation, environmental performance and affordability. The practical implementation of certain new efficiency standards can create serious, and sometimes cost-prohibitive, challenges for America's renters. We appreciate the efforts the Administration has already taken to rescind or revise regulations impacting residential appliances and we detail additional items for reconsideration in the appendix below.

Technological Transformation in Rental Housing

We thank the Administration for championing innovation and competition in the marketplace. Real estate technology – including emerging technologies like Artificial Intelligence ("AI") – has the potential to make housing more affordable and accessible for millions of Americans who struggle to access the rental housing market. From development to financing to the resident experience, technology has a critical role to play in driving solutions to address many of our housing challenges.

The current legal landscape provides strong protection against risks posed by AI, machine learning and algorithmic-informed decision making. However, this progress is threatened by a growing patchwork of state and local laws and regulations that often lack a nuanced understanding of the technology or its consumer benefits. This ultimately undermines the benefits these systems and technologies offer to renters and housing providers alike.

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[20] Energy Conservation and Production Act ("ECPA") (Pub. L. No. 94-385), as amended by the Energy Policy Act of 1992 (EPACT 1992) (Pub. L. No. 102-486), the Energy Policy Act of 2005 (EPACT 2005) (Pub. L. No. 109-58) and the Energy Independence and Security Act of 2007 (EISA 2007) (Pub. L. No. 110-140). 42 U.S.C. 6833-6836 and 42 U.S.C. 17071.

[21] Resilient and Efficient Codes Implementation, Dep't of Energy, Office of Energy Efficiency and Renewable Energy, https://www.energycodes.gov/RECI.

[22] "Biden-Harris Administration Announces $530 Million for Building Energy Efficiency and Resilience to Cut Consumer Costs," (Dec. 2023), https://web.archive.org/web/20250123021053/https://www.energy.gov/articles/biden-harris-administration-announces-530-million-building-energy-efficiency-and.

As policymakers at the federal, state and local level consider regulations in this space, they should ensure that the technology marketplace is robust by enabling the continued growth of tech-driven solutions that have significant pro-consumer and pro-housing benefits.

Artificial Intelligence

Housing policy and the relationship between housing providers and renters are guided strongly by various federal statutes that apply to AI applications. For example, HUD and DOJ enforce the FHA and similar laws, and the Federal Trade Commission ("FTC") has general authority to regulate potentially unfair and deceptive trade practices. Additionally, the Consumer Financial Protection Bureau ("CFPB") has rulemaking and enforcement responsibility under the Fair Credit Reporting Act ("FCRA"). Each of these agencies has taken actions – ranging from joint statements to requests for public input and enforcement actions, among other efforts – under their existing authorities to ensure consumer protections are applied to AI and other emerging technologies.

As the Administration promotes a competitive marketplace, we ask that safe harbors are incorporated to provide rental housing providers with the flexibility necessary to continue innovating as technologies evolve. We also urge federal policymakers to curtail the growing patchwork of state and local laws regulating AI. A growing number of state and local laws and proposals reflect a lack of understanding about the underlying technologies and are anti-competitive and anti-innovation. Further, these state and local laws are unnecessary and burdensome as the existing legal landscape already offers strong protections.

Revenue Management Software

In recent months, legislation has been introduced or enacted in several states and localities to ban or restrict rental housing operators' ability to use pricing software, also referred to as revenue management software. Without any clear factual basis, legislators blame such software for the nation's housing affordability challenges. In general, pricing software collects certain types of data and reflects available market conditions to make rent recommendations. It does not set rents and is not the cause of a housing affordability problem that has persisted for decades and has become more acute in recent years. In fact, HUD has used similar rental housing pricing technology for decades in the administration of the Section 8 program that supports low-income families.

State and local efforts would overregulate an already highly regulated housing market and could deter critical investments in rental housing, thereby further worsening housing affordability. In fact, the Bipartisan House Task Force on Artificial Intelligence, created by Speaker Johnson and Democratic Leader Jeffries, issued a final report in 2024 that cautions against a fragmented regulatory regime such as this.[23] As our organizations have consistently said in the past, a fragmented regulatory approach in data management, security and technology risks stifling innovation and increasing compliance costs. This ultimately undermines the benefits these systems and technologies offer to renters and housing providers alike.

Data Privacy and Security

A fragmented regulatory approach in data management, security and technology risks stifling innovation and increasing compliance costs. NMHC, NAA and RETTC strongly support the establishment of a comprehensive federal data privacy framework. Further, we believe the creation of this framework must precede the imposition of any additional regulations on the use and development of AI technologies. Congress should enact legislation that creates a single national data security, consumer privacy and breach notification standard that is reasonable, flexible and scalable.

[23] "Bipartisan House Task Force Report on Artificial Intelligence," Bipartisan House Task Force on Artificial Intelligence, 118th Congress (Dec. 2024), https://www.speaker.gov/wp-content/uploads/2024/12/AI-Task-Force-Report-FINAL.pdf.

Importantly, a clear, federal preemption is essential to provide clarity for rental housing firms that operate across state lines. The current patchwork of state laws creates a significant compliance burden for rental housing firms and leaves consumers vulnerable to myriads of mistakes and unintended consequences. This is particularly true given the constantly evolving nature of state data privacy and security laws. A clear and full preemption of state law is an essential component of any meaningful federal privacy legislative effort, otherwise compliance with a continued patchwork of data privacy laws will continue to create significant compliance challenges.

Policymakers should ensure the FTC and other regulators do not implement overly burdensome and costly compliance requirements. For example, given the complexities of verifying any privacy or protection request and responding accurately, rental housing firms need sufficient time to carry out any request, including the option for an extension if necessary.

Broadband and Resident Connectivity

Connectivity is critical to renters, which means that rental housing providers actively seek communications providers to meet residents' expectations. Housing providers and internet service providers ("ISPs") enter into agreements that are best negotiated under free market conditions. This encourages competition. Because ISPs must compete for the right to serve a building, housing providers are able to ensure that residents have access to a mix of services at competitive rates. This allows owners and operators to preserve the limited space for wiring and infrastructure at their communities for the ISPs who will best serve their residents.

Limits on certain agreements between housing providers and ISPs could result in higher prices, lower service quality, decreased competition and slower broadband deployment. In a free market economy, it is imperative that rental housing providers are able to negotiate with ISPs to ensure that residents have reliable, quality connectivity.

Rental housing providers have increasingly adopted the bulk internet model to respond to resident demand for always-on and community-wide connectivity. In fact, by using the bulk billing model, housing providers routinely negotiate better pricing, speeds, reliability and customer service for residents than what is found in the broader community. Some states are considering banning bulk internet agreements. This will harm residents and disincentivize investment in broadband service especially in low-income, smaller and more-affordable multifamily communities. Worse, it runs in direct opposition to investments in bridging the digital divide, by eliminating a cost effective, quick and reliable solution to improve broadband access and adoption.

Opponents to bulk billing arrangements rely heavily on anecdotes and are not supported by data or facts. The Federal Communications Commission itself has acknowledged the important role that rental housing providers can play in ensuring delivery of broadband to their residents through bulk billing arrangements. Bulk billing arrangements are pro-consumer and pro-renter. Federal, state and local policymakers should look for ways to support and elevate bulk billing arrangements to boost broadband access. They should not reduce options and in turn, potentially disconnect millions of American families.

Rental housing providers also have to navigate a variety of state and municipal efforts to require them to allow any internet provider to service their property. This is regardless of whether, or how many, providers already serve the property. State and local mandatory access efforts harm broadband deployment and competition, and reduce broadband infrastructure investment or discourage maintenance of existing infrastructure. Some of these efforts force a housing provider to allow a service provider to install equipment and use existing "home run wiring" and "cable home run wiring" owned by the property owner. These efforts are anticompetitive because they disincentivize providers to compete. With limited exceptions, the mandate to accept a new service provider

applies regardless of whether the housing provider has an existing contract with other service providers already serving the property. This could lead to litigation, higher prices and less choice for consumers.

Conclusion

Eliminating anticompetitive laws and regulations will help Americans who depend on rental housing. Multifamily rental housing presents unique, local issues that are in some cases best addressed, not at the federal level, but at the state and local level in order to appropriately protect and promote the needs of individual communities. State and local laws and regulations in the rental housing industry are already extensive and robust. Removing the burden of unnecessary, additional federal regulations is critical so that we can all work together to create and maintain affordable housing for all Americans.

Thank you for the opportunity to share our views and we look forward to working with you on our shared housing goals. You can find a detailed list of federal regulations and programs that impact the rental housing sector and our recommendations for agency action in the appendix below. Please call upon us if we can serve as a resource to you in this regard.

Sincerely,

Sharon Wilson Géno
President
National Multifamily Housing Council

Robert Pinnegar
President & CEO
National Apartment Association

Kevin Donnelly
Executive Director and Chief Advocacy Officer
Real Estate Technology & Transformation Center

Apartment Industry Regulatory Priorities
May 27, 2025

FINAL RULES

RULE	CITATION	RECOMMENDATION
U.S. DEPARTMENT OF AGRICULTURE (USDA)		
USDA Rural Housing Service's (RHS) 30-Day Notification of Nonpayment of Rent in Multi-Family Housing Direct Loan Programs Final Rule	89 FR 20539 March 25, 2024 7 CFR Part 3560	**Rescind** – RHS issued a final rule to amend its regulations for the Multi-Family Housing Direct Loans and Grants Programs to require that Section 515, 514, and 516 Multi-Family Housing program borrowers provide residents with at least 30 days' notice prior to a lease termination or eviction action for nonpayment of rent, which the Agency asserts as statutorily required by the pandemic-era Coronavirus Aid, Relief, and Economic Security (CARES) Act. In March 2020, Congress enacted the CARES Act, which included what should have been a temporary, federal enhancement of states' eviction notice procedure. The provision required at least 30-days' notice prior to filing for eviction for nonpayment of rent in covered housing, such as those assisted by the Section 8 Housing Choice Voucher (HCV) program, the USDA RHS programs and Fannie Mae or Freddie Mac-backed multifamily housing, and superseded states' established notice procedures (6 days on average). USDA/RHS should rescind this rule to reduce the financial risks to rural housing providers and their residents due to continued enforcement of what should have been a temporary policy.
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)		
30-Day Notification Requirement Prior To Termination of Lease for Nonpayment of Rent	89 FR 101270 Dec. 13, 2024	**Rescind** – This rule makes permanent for some HUD-assisted housing, a temporary COVID-era extension of states' eviction notice policies. This sets

	24 CFR Parts 247, 880, 884, 886, 891, and 966	a damaging precedent for federal interference with states' authority over the eviction process. HUD should rescind this rule to prevent undue financial strain on housing providers and protect HUD-assisted renters who become increasingly unable to repay mounting rent debt as a consequence of this policy.
Reinstatement of HUD's Discriminatory Effects Standard	88 FR 19450 Mar. 31, 2023 24 CFR Part 100	**Rescind, Reinstate Prior Rule and Revise Guidance** - Also known as the Disparate Impact Rule, this Rule formalized the framework for assessing whether a given practice violates the Fair Housing Act even when there is no intent to discriminate and can put limitations on necessary business practices like resident screening. This Rule replaced the Trump Administration's 2020 Rule that included important safeguards for housing providers against litigation stemming from legitimate, nondiscriminatory policies.
HOME Investment Partnerships Program: Program Updates and Streamlining	90 FR 746 Jan. 6, 2025 24 CFR Parts 91, 92, 570, and 982	**Rescind** - This Rule imposes numerous additional requirements on housing providers which deter private sector participation in the program. While the effective date for certain provisions of this Rule was delayed in April 2025 to allow for further public comment, the Administration should take further steps to rescind this rule. The provisions of the Rule that are not subject to delay by the April publication became effective as of April 20, 2025.
Affirmatively Furthering Fair Housing (AFFH) Revisions	90 FR 11020 Mar. 3, 2025 24 CFR Parts 5, 91, 92, 570, 574, 576 and 903	**Finalize** - The Administration issued an interim final rule that returns AFFH requirements to the original understanding of statutory conditions, which was a general commitment that grantees will take active steps to promote fair housing. The Interim Rule was open for comment and the Administration should move forward with the proposed revisions.
Floodplain Management and Protection of Wetlands; Minimum Property Standards for Flood Hazard Exposure; Building to the Federal Flood Risk Management Standard	89 FR 30850 Apr. 23, 2024 24 CFR Parts 50, 55, 58, and 200	**Rescind** - This rule imposes substantial compliance costs on property owners without robust data on actual risk reduction benefits nationwide.
DEAPARTMENT OF ENERGY (DOE)		

Energy Conservation Program for Appliance Standards: Procedures, Interpretations, and Policies for Consideration in New or Revised Energy Conservation Standards and Test Procedures for Consumer Products and Commercial/Industrial Equipment (i.e. the "Process Rule")	89 FR 24340 Apr. 8, 2024 10 CFR Part 430	**Rescind and Revise** – The Process Rule establishes a general framework for DOE to develop energy conservation standards and test procedures for both consumer products and commercial equipment pursuant to the Energy Policy and Conservation Act (EPCA). In January 2025, President Trump issued an Executive Order "to safeguard the American people's freedom to choose from a variety of goods and appliances" among other purposes. To implement the Order, the DOE is seeking information on potential improvements to the Process Rule. The RFI is currently open for comment and the Administration should move forward with changes that protect housing affordability and promote the development and renovations of housing supply. While we strongly support improved energy performance in the residential sector, the practical implementation of new appliance efficiency standards can create serious, and sometimes cost-prohibitive, challenges for housing providers and our residents. Moving forward, DOE's analysis on the necessity and justification of new standards must balance the impact on the nation's housing conditions. Apartment providers are bulk purchasers of consumer appliances and are responsible for ensuring our residents' homes are well-equipped with safe, effective and affordable products that meet their performance expectations. The Process Rule should ensure that the unique needs of the apartment industry are recognized and support the development of housing at all price points, which is essential to address the nation's critical housing challenges and ensure economic stability for American households.
Energy Conservation Program for Appliance Standards: Energy Conservation Standards for Residential Furnaces and Commercial Water Heaters	86 FR 73947 Dec. 29, 2021 10 CFR Parts 430 and 431:	**Rescind and Revise** - This Rule establishes higher efficiency requirements for non-weatherized gas furnaces without considering the impact of burdening use of this equipment type in the marketplace. It poses particular cost and constructability challenges for renovation and system replacement in existing buildings that can exacerbate high housing costs. A revised rule should account for impacts on housing costs and availability.
Energy Conservation Program: Energy	89 FR 37778 May 6, 2024	**Rescind and Revise** - The analysis underpinning this Rule suffers serious deficiencies with respect to

Conservation Standards for Consumer Water Heaters	10 CFR Parts 429 and 430	apartment properties and lacks proper consideration of cost-effectiveness in housing, technical needs in existing buildings and resulting electrification issues. A revised rule should specifically account for the differing needs of the existing buildings and new construction markets.
Energy Conservation Program: Energy Conservation Standards for Consumer Conventional Cooking Products	89 FR 11434 Feb. 14, 2024 10 CFR Part 430	**Rescind and Revise** - Part of a series of new efficiency standards for critical home appliances, the Rule fails to consider the impacts of numerous new requirements enacted in the same period. A revised rule should ensure new requirements protect housing affordability, enable critically needed new housing production and preserve product choice.
Energy Conservation Program: Energy Conservation Standards for Residential Clothes Washers	89 FR 19026 Mar. 15, 2024 10 CFR Part 430	**Rescind and Revise** – These new standards will result in new costs and impact the product choice and performance expected by residential consumers. A revised rule should ensure new requirements protect housing affordability, enable critically needed new housing production and preserve product choice. On May 12, 2025, the Department of Energy announced its intention to withdraw 47 regulations in an effort to advance the goals of the President's Executive Order "Zero-Based Regulation to Unleash American Energy." The Administration should move forward with the revision of this rule.
Energy Conservation Program: Energy Conservation Standards for Refrigerators, Refrigerator-Freezers, and Freezers	89 FR 3026 Jan. 17, 2024 10 CFR Part 430	**Rescind and Revise** – Part of a series of new efficiency standards for critical home appliances, the Rule fails to consider the impacts of numerous new requirements enacted in the same period. A revised rule should ensure new requirements protect housing affordability, enable critically needed new housing production and preserve product choice.
DEPARTMENT OF TREASURY		
Beneficial Ownership Information Reporting Requirements	87 FR 59498 Sept. 30, 2022 31 CFR Part 1010	**Rescind** – While the Corporate Transparency Act (CTA) required the establishment of a national approach to identifying illicit actors who hid behind shell companies, the rollout by the Financial Crimes Enforcement Network (FinCEN)(part of the Department of the Treasury) has been fraught with bad communication, unclear compliance requirements and a short compliance timeline. On March 3, 2025, Treasury announced that they would not enforce any penalties or fines regarding

		reporting rules and subsequently issued an Interim Final Rule that formally narrows the existing beneficial ownership information (BOI) reporting requirements under the CTA to only cover foreign reporting companies. Additionally, the Interim Rule exempts foreign reporting companies from reporting the BOI of any U.S. persons who are beneficial owners of the foreign reporting companies. The Interim Rule is currently open for comment and the Administration should move forward with the proposed revisions.
Certain Partnership Related-Party Basis Adjustment Transactions as Transactions of Interest	90 FR 2958 Jan. 14, 2025 26 CFR Part 1	**Rescind** - The final regulations identify certain transactions involving positive basis adjustments exceeding $10 million for tax years after 2025 ($25 million for tax years before 2025) to which no corresponding tax is paid as so-called transactions of interest, which are reportable transactions. Compliance with these requirements is costly and difficult due to the long look-back period. Transactions must be reported on a going-forward basis too. On April 17, 2025, Treasury and the Internal Revenue Service (IRS) announced their intention to withdraw final regulations through a Notice of Proposed Rulemaking (NPRM) that will propose removing the basis-shifting TOI regulations. The Administration should move forward with such a NPRM.
Guidance on the Definition of Domestically Controlled Qualified Investment Entities	89 FR 31618 Apr. 25, 2024 26 CFR Part 1	**Rescind and Revise** - The Treasury Department and IRS issued final regulations (TD 9992) on the definition of domestically controlled qualified investment entities. While the final regulations represent an improvement over the proposed regulations released in December 2022, the final regulations inhibit foreign investment in the multifamily industry at a time when all capital is necessary to address the housing supply crisis.
ENVIRONMENTAL PROTECTION AGENCY (EPA)		
Phasedown of Hydrofluorocarbons: Technology Transitions Program Residential and Light Commercial Air	88 FR 88825 Dec. 26, 2023 40 CFR Part 84:	**Delay Implementation** - This Rule establishes a rapid transition timeline that raises significant cost and compliance concerns in the housing sector. In particular, it fails to address unique building code and constructability challenges faced by multifamily buildings. A delay in implementation will allow for

Conditioning and Heat Pump Sector		necessary changes to building codes addressing new refrigerant use.
Revised Definition of "Waters of the United States" (WOTUS); Conforming	88 FR 61964 Sept. 8, 2023 40 CFR Part 120	**Rescind and Revise** – This Rule is part of a long-term effort to define federal jurisdiction under the Clean Water Act (CWA). After the Rule was finalized, the Supreme Court, in the case *Sackett v. EPA*, narrowed the agency's authority under the CWA and the Rule is subject to ongoing litigation. The Administration is seeking revision of the Rule and is currently considering comments on how to comply with the *Sackett* decision. The Administration should continue its efforts to remedy the inaccuracies and ambiguities of the current WOTUS definition and decline to defend the current Rule in litigation.
Reconsideration of the Dust-Lead Hazard Standards and Dust-Lead Post Abatement Clearance Levels	89 FR 89416 Nov. 12, 2024 40 CFR Part 745	**Rescind and Revise** – This Rule dramatically alters how dust hazards from lead-based paint are defined in housing. Without Administrative action, properties that appropriately remediate lead hazards to EPA clearance levels may nevertheless be classified as a hazard moving forward. A revised rule should restore the important, previously existing relationship between the dust-lead hazard standards and clearance levels.
SECURITIES AND EXCHANGE COMMISSION (SEC)		
The Enhancement and Standardization of Climate-Related Disclosures for Investors	89 FR 21668 Mar. 28, 2024 17 CFR 210, 229, 230, 232, 239, and 249	**Rescind** - This rule requires all public companies to establish a reporting framework that identifies and analyzes a set of climate-related impacts by and to the company. This is subject to an ongoing legal challenge and the SEC stayed effectiveness of the Rule pending completion of litigation. As announced, the Administration should discontinue defense of the rule in litigation and withdraw the rule.
FEDERAL COMMUNICATIONS COMMISSION (FCC)		
The Infrastructure Investment and Jobs Act: Prevention and Elimination of Digital Discrimination	89 FR 4128 Jan. 22, 2024 47 CFR Parts 0, 1, and 16	**Rescind or Revise** - The FCC was required to enact rules to define and prevent digital discrimination as part of the Infrastructure Investment and Jobs Act. In its final rule, the FCC included property owners as a "covered entity," which would hold housing providers liable under the FCC's enforcement scheme for action's related to broadband availability outside of their control. The FCC should rescind or revise the

		rule to ensure property owners are not deemed "covered entities" under the FCC Rule.
Updating the Improving Competitive Broadband Access to Multiple Tenant Environments	87 FR 17181 Mar. 28, 2022 47 CFR Parts 64 and 76	**Rescind** - The FCC issued a Report and Order and Declaratory Ruling under to examine the terms of agreements between broadband providers and owners of residential, office and retail properties. The Rule should be rescinded and the docket (Docket No: 17-142) officially closed to ensure the market's continued success in deploying superior service to most apartments.
DEPARTMENT OF LABOR, NATIONAL LABOR RELATIONS BOARD AND OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION		
Updating the Davis-Bacon and Related Acts Regulations	88 FR 57526 Aug. 23, 2023 29 CFR Parts 1, 3, and 5	**Rescind and Revise** – This Rule updates the wage-setting provisions for the Davis-Bacon Act, which apply to federal and federally-assisted apartment construction projects. The Rule skews the prevailing wage determination by over relying on larger builders who often use union-negotiated wage rates. This impacts the ability to develop and rehabilitate these properties affordably. A revised rule should consider the repeal of these wage requirements entirely on federally funded or assisted housing projects.
Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees	89 FR 32842 Apr. 26, 2024 29 CFR Part 541	**Rescind** – This Rule increases the number of employees eligible for overtime pay and is subject to ongoing litigation. On November 15, the U.S. District Court for the Eastern District of Texas issued a ruling in the case *Texas v. Department of Labor*, invalidating the entirety of the Final Rule. The Administration should rescind this Rule and drop its appeal to the Eastern District of Texas, stopping its defense of the Rule in this and future litigation.
Standard for Determining Joint Employer Status	88 FR 73946 Oct. 27, 2023 29 CFR Part 103	**Rescind and Revise** - This Rule replaces the National Labor Relations Board's (NLRB) 2020 Rule, which had addressed the damaging standard adopted by the Obama-era NLRB in Browning Ferris Industries (BFI). The final rule is very closely aligned with the NLRB's Notice of Proposed Rulemaking (NPRM) and represents a drastic expansion to joint employer status for purposes of the Act. The Administration should withdraw and revise the Rule to reinstate the 2020 Rule with improvements.

GUIDANCE, STANDARDS AND NOTICE

DOCUMENT	RECOMMENDATION
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT	
Joint Statement of HUD and DOJ on Reasonable Accommodations Under the Fair Housing Act (May 17, 2004) & Notice FHEO-2020-01: Assessing a Person's Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act (January 28, 2020)	**Review and Revise** – These documents establish the compliance framework for housing providers to address the use of animals as an accommodation under the Fair Housing Act (FHA). While we support disabled renters' rights to reside with their assistance animals, fraudulent reasonable accommodation requests for assistance animals - specifically emotional support animals – create significant concern for apartment owners and operators. In January 2020, the Trump Administration issued guidance on handling assistance animal accommodation requests. Despite the Administration's best efforts to tackle this issue, the volume of fraudulent requests continues to inflate housing providers' compliance costs and their administrative requirements to process requests timely in accordance with fair housing laws. We urge the Administration to reaffirm housing providers' right to question the authenticity or reliability of required documentation, enforce limitations on the types of healthcare professionals who can verify disability-related need and reexamine the applicability of routine pet policies to non-service animals. In addition, we suggest reconsideration of whether the process to evaluate a request for a service animal under the Americans with Disabilities Act (ADA) should also be the basis for considering service animal requests under the FHA. We also strongly support safe harbors for housing providers that ensure housing providers acting in good faith in approving a resident's assistance animal request are not subject to liability for injuries or damages caused by the animal.
Guidance on Application of the Fair Housing Act to the Screening of Applicants for Rental Housing Apr. 29, 2024	**Rescind** - This guidance advances liability theories and best practices that lack legal and practical foundation and create uncertainty for housing providers.
Guidance on Application of the Fair Housing Act to the Advertising of Housing, Credit, and Other Real Estate-Related Transactions through Digital Platforms Apr. 29, 2024	**Rescind** - While AI tools help housing providers improve efficiency, reduce bias and detect fraud, this guidance unduly restricts their use. The Administration should rescind this guidance to allow flexible and responsible AI adoption in housing operations.
National Standards for the Physical Inspection of Real Estate 88 FR 40832	**Review and Revise** – HUD is implementing its National Standards for the Physical Inspection of Real Estate (NSPIRE). This new set of standards is meant to replace and consolidate the two previously used for HUD housing programs: the Housing Quality Standards and the Uniform Physical

June 22, 2023	Condition Standards. The NSPIRE standards were implemented in July 2023, with an extension for Section 8 housing compliance until October 1, 2025. HUD should review the standards and protocols in effect for multifamily and FHA-insured properties, focusing on results over process i.e. evaluate whether something does or does not work instead of how it works.
Changes to the Methodology Used for Calculating Section 8 Income Limits Under the United States Housing Act of 1937 **89 FR 1583** **Jan. 10, 2024**	**Rescind and Reinstate** - This Notice changes how renter households' income limits are calculated for Section 8 eligibility and other federally assisted housing programs, including housing financed by the low-income housing tax credit (LIHTC), creating a new, absolute cap on annual income limits. This restricts participation in these programs and burdens LIHTC properties, which could be more deeply rent restricted because their rent increases are tied to HUD's income limits and imposes a form of rent control. The Administration should withdraw this Notice and reinstate the pre-Notice standard.
CPD Implementation Guidance for the Build America, Buy America Act's (BABA) Buy America Preference **Jan. 13, 2025**	**Rescind and Reissue** - BABA establishes a domestic content procurement preference for all federal financial assistance (FFA) used to finance infrastructure projects, including real estate. This requirement, called the Buy America Preference (BAP), adds cost to the construction of multifamily housing. The Administration should rescind the CPD Implementation Guidance and issue a new directive exempting multifamily housing projects from BABA.
Adoption of Energy Efficiency Standards for New Construction of HUD- and USDA-Financed Housing; Extension of HUD Compliance Dates **90 FR 11622** **Mar. 10, 2025**	**Delay and Suspend Litigation Defense** - In April 2024, HUD and the USDA issued a final determination adopting the 2021 International Energy Conservation Code (IECC) and ASHRAE 90.1-2019 as minimum energy standards for new multifamily construction and rehabilitation projects financed by these agencies. These overly ambitious, aggressive climate goals force housing providers to meet code standards that are not required in the vast majority of states nationwide. These requirements are subject to ongoing litigation and the Administration should decline to defend the Final Determination and continue to delay implementation pending the outcome of litigation.

PROPOSALS AND OTHER REGULATORY ACTION

DOCUMENT	RECOMMENDATION
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT	
Review and Reform Rules and Regulations Pertaining to the Section 8 Housing Choice Voucher Program (HCV)	The public-private Section 8 HCV program could be the nation's most effective affordable housing and community development tool. However, it is plagued with inefficiencies, onerous regulatory requirements and a flawed funding system. We urge the Administration to perform a thorough review of the HCV program, remove the barriers to utilization and incentivize greater private sector participation.

	Specific reforms could include limiting PHA's discretion to approve or deny rent or rent increase requests that already meet "rent reasonableness" standards, requiring PHAs to disburse "timely payment" within 18 days of their due date for tenants, employing dedicated landlord liaisons, creating housing provider risk mitigation funds and housing provider incentives and streamlining the inspection process. Overall, HUD must enforce uniform standards for PHAs that administer the HCV program. Current Section 8 Management Assessment Program (SEMAP) standards are insufficient. We also recommend establishing a national pilot program transitioning the housing assistance payment system to an electronic benefits transfer.
DEPARTMENT OF ENERGY	
Building Code Program	DOE has expanded efforts to enact specific building energy codes and building performance standards to promote climate change goals. While cost-effective and technically feasible codes and standards are essential construction tools, federal policies that create expansive, new energy and zero emissions requirements for buildings will unnecessarily burden home construction and increase housing costs. In particular, DOE should ensure states and localities have the ability to enact building performance requirements that address their unique market conditions and DOE should avoid grants and other incentives that attach specific, one-size-fits-all energy code, electrification or emissions requirements to funding opportunities.
DEPARTMENT OF TREASURY	
Proposed Rule: Regulatory Capital Rule: Large Banking Organizations and Banking Organizations with Significant Trading Activity **88 FR 64028** **Sept. 18, 2023**	Banking regulators proposed to have the US banking industry comply with the next stage of the international Basel banking regulations. Basel III endgame would go further than the regulation and potentially constrain capital from the largest banks in the United States. We recommend against the issuance of this rule.
FEDERAL HOUSING FINANCE AGENCY (FHFA)	
Address COVID-era 30-Day Notice of Eviction Requirement	We urge the Administration to clarify that the federal, CARES Act 30-day notice of eviction requirement ended in 2020 and encourage FHFA's General Counsel to issue a legal opinion fully restoring eviction policy to states and localities. This issue remains a contested issue in eviction courts today and results in increased financial risk for housing providers and renters alike.
2025 Scorecard for Fannie Mae, Freddie Mac, and	FHFA formalized its expectation that the Enterprises must "[e]nhance resident-centered practices, such as tenant protections, at Enterprise-backed

Common Securitization Solutions	multifamily properties" in its 2025 Scorecard, including new, federal landlord-tenant requirements and enforcement of the COVID-era CARES Act 30 Day Notice-to-Vacate eviction requirement. The Administration should remove these provisions.
Withdraw Directive to the Enterprises to Consider Federally-Mandated Landlord-Tenant Requirements	As part of the Biden White House Blueprint for a Renters Bill of Rights, FHFA and the Enterprises committed to continue to evaluate resident-centered practices that should be codified and enforced on housing providers with enterprise-backed rental communities. Policy proposals under consideration included failed policies like rent control, a "source of income"- style mandate intended to require housing providers to participate in the Section 8 HCV program and just cause eviction requirements that limited housing providers' rights to nonrenew at the end of a lease contract thereby resulting in tenancies in perpetuity. While FHFA has already eliminated 3 servicing requirements for enterprise-backed multifamily housing, FHFA should take a step further and rescind this Biden-era directive that would result in the opposite of intended public interest goals, i.e. to reduce access to quality, affordable housing options for renters.
DEPARTMENT OF HOMELAND SECURITY	
Proposed Rule - Cyber Incident Reporting for Critical Infrastructure Act (CIRCIA) Reporting Requirements **89 FR 23644** **Apr. 4, 2024**	This proposed rule includes a broad definition of "covered cyber incident" that would increase the administrative cost and decrease regulatory clarity for rental housing providers. The Administration should withdraw and narrow the scope of this rule.