

United States Senate

WASHINGTON, DC 20510

November 1, 2023

The Honorable Marcia Fudge
Secretary
U.S. Department of Housing and Urban Development
451 7th Street, Southwest
Washington, D.C. 20410

The Honorable Tom Vilsack
Secretary
U.S. Department of Agriculture
1400 Independence Avenue, Southwest
Washington, D.C. 20250

Dear Secretary Fudge and Secretary Vilsack:

We write to raise significant concerns with your proposed adoption of revised energy standards for newly constructed and rehabilitated homes insured or guaranteed by the U.S. Department of Housing and Urban Development (HUD) or the U.S. Department of Agriculture (USDA).¹ We urge you to change course, as adoption of these standards would impose significant costs on American households, particularly low- and moderate-income families, and put undue pressure on an already constrained housing supply.

As you know, the Energy Independence and Security Act of 2007 (P.L. 110-140) requires HUD and USDA to adopt revised energy standards if, after the U.S. Department of Energy determines that the revised standards would improve energy efficiency, the agencies “make a determination that the revised codes do not negatively affect the availability or affordability” of newly constructed or rehabilitated homes insured or guaranteed by HUD or USDA.² Though you preliminarily determined that revised energy standards would not adversely impact the availability or affordability of housing, we disagree as evidence exists to the contrary.

HUD and USDA incorrectly conclude that the availability or affordability of housing will not be negatively impacted by adoption of the revised standards. The agencies, for example, ignore costs that will be placed on single-family borrowers by relying on a Pacific Northwest National Laboratory study to estimate savings that optimistically presume a mortgage interest rate of three percent, disregarding the fact that mortgage rates are currently more than double this estimate.³ The agencies also admit that “new construction for FHA borrowers would decline” if revised standards are adopted and naively declare that “borrowers could adapt to the supply constraints by seeking a conventional loan or by purchasing an existing home with similar qualities.”⁴ Moreover, the agencies cite research finding energy efficiency programs have a lower net benefit for low-income households than expected, and unequivocally conclude that “energy efficiency

¹ Adoption of Energy Efficiency Standards for New Construction of HUD- and USDA-Financed Housing: Preliminary Determination and Solicitation of Comment, 88 Fed. Reg. 31,733 (May 18, 2023).

² Pub. L. No. 110-140, § 481(d)(1), 121 Stat. 1648 (2007). The law requires adoption of energy standards that are based on the International Energy Conservation Code (IECC) in the case of single-family or low-rise buildings, and the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Standard 90.1 in the case of residential high rises with four or more stories.

³ Adoption of Energy Efficiency Standards for New Construction of HUD- and USDA-Financed Housing: Preliminary Determination and Solicitation of Comment, 88 Fed. Reg. at 31,784; Pac. Nw. Nat’l Lab., PNNL-31019 National Cost Effectiveness of the Residential Provisions of the 2021 IECC (June 2021).

https://www.energycodes.gov/sites/default/files/2021-07/2021IECC_CostEffectiveness_Final_Residential.pdf.

⁴ Regulatory Impact Analysis for the Adoption of Energy Efficiency Standards for New Construction of HUD- and USDA-Financed Housing: Preliminary Determination, 71 (May 30, 2023), <https://downloads.regulations.gov/HUD-2023-0034-0005/content.pdf>.

requires an additional cost and one that lower-income households may not have the disposable income to accommodate.”⁵

It is no secret that the cost of purchasing and renting a home has surged over the last few years, and the problems are more pronounced for lower-income families, making adoption of the revised IECC and ASHRAE standards all the more ill-timed. In recent years, construction of smaller and typically less-expensive, single-family homes represents a small fraction of all new, single-family construction.⁶ On the multifamily front, though construction has increased, rental units are increasingly becoming unaffordable for lower-income households partially because permitting activity is overwhelmingly concentrated in large metro areas where the bulk of new construction has been driven by properties with 20 or more units, presumably being built in higher-cost urban centers.⁷ Moreover, the supply of lower-cost rentals is consistently declining.⁸

Over the last few years, the Biden administration has demonstrated a reckless commitment to forcing its unrealistic environmental agenda onto various aspects of the economy via its push toward electrification, regulating household appliances, and the stifling of conventional American energy production. So it is not at all surprising that the administration is now forcing its agenda onto families purchasing or renting a home, all while admitting that “lower-income households . . . may be challenged in their ability to address first costs.”⁹

To that end, we request that you abandon this effort and conduct an honest evaluation as to how adoption of the revised IECC and ASHRAE standards would increase costs and give special attention to the affect adoption would have on lower-income families.

Sincerely,



John Thune
United States Senator



Tim Scott
United States Senator



John Barrasso, M.D.
United States Senator



John Boozman
United States Senator

⁵ *Id.* at 85.

⁶ Harvard Joint Center for Housing Studies, *State of the Nation's Housing 2023*, 11 (June 2023), https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_The_State_of_the_Nations_Housing_2023.pdf.

⁷ *Id.* at 35.

⁸ *Id.* at 36.

⁹ *Adoption of Energy Efficiency Standards for New Construction of HUD- and USDA-Financed Housing: Preliminary Determination and Solicitation of Comment*, 88 Fed. Reg. at 31,791.



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