

January 23, 2024

John E. Bell III
Executive Director, Loan Guaranty Service
Veterans Benefits Administration
Department of Veterans Affairs
810 Vermont Avenue NW
Washington, DC 20420

Dear Director Bell:

On behalf of the National Association of Home Builders of the United States (NAHB), I am writing to inform you of our opposition to the preliminary determination, “Adoption of Energy Efficiency Standards for New Construction of HUD- and USDA-Financed Housing,” issued by the Department of Housing and Urban Development (HUD) and the United States Department of Agriculture (USDA).

The *Energy Independence and Security Act of 2007* (EISA) directs HUD and the USDA to adopt the most recently published revisions of the International Energy Conservation Code (IECC) and ASHRAE 90.1¹ subject to a cost-benefit housing “affordability and availability” test. These periodic revisions are conditional on a determination by HUD and USDA that the revised codes will not negatively affect the availability or affordability of new construction single-family and multifamily housing covered by EISA and a determination by the Secretary of the Department of Energy (DOE) that the revised codes would improve energy efficiency. On May 18, 2023, HUD and USDA published the preliminary determination proposing to require new housing subject to EISA be built to the 2021 IECC and ASHRAE 90.1-2019.

NAHB is a strong proponent of energy efficiency and maintains a commitment to support the development and implementation of cost-effective energy-saving products; however, we strongly disagree with the preliminary determination issued by HUD and USDA.

Since the Veterans Administration (VA) has a statutory mandate to align with HUD and USDA if they finalize this proposal², the VA should understand fully the impact the adoption of the 2021 IECC will have on Veterans seeking to purchase newly constructed single-family homes. Requiring the updated energy codes in jurisdictions that have not adopted the 2021 IECC or an equivalent code³ will impose a significant cost increase on new construction homes for Veteran households, particularly for low- and moderate-income families, without a commensurate savings in utility bills. The increased costs will exacerbate the current housing affordability crisis and NAHB urges the VA to highlight this issue in your interagency coordination meetings with HUD and USDA.

¹ The residential provisions of the IECC apply to detached one- and two-family dwellings and townhouses and other residential buildings three stories or less in height above grade plane. ASHRAE Standard 90.1 applies to multifamily residential buildings with four or more stories.

² 38 U.S. code §3704(f)

³ As of December 2023, only five states (California, Connecticut, New Jersey, Vermont, and Washington) have adopted residential energy codes deemed equivalent to the 2021 IECC by the [DOE Building Energy Codes Program](#).

NAHB asserts that homes built to modern energy codes, such as the 2009 through 2018 versions of the IECC, are energy efficient and provide cost effective value to consumers. The 2021 IECC contains several provisions that have little impact on energy efficiency yet result in significant cost increases. NAHB recommends the VA conduct its own research into how the proposed energy code mandate would impact access to housing for Veterans.

The letter NAHB submitted on August 7, 2023 in response to the HUD/USDA preliminary determination is attached and I would like to bring to your attention a few key points.

Adoption of the revised codes will negatively affect the affordability and availability of newly constructed homes.

NAHB disputes the research cited in the proposal used to complete the regulatory impact analysis on which HUD and USDA rely to determine the cost effectiveness of the latest energy efficiency standards. The costs to comply with the 2021 IECC are higher than estimated in the proposal and would be passed along to home buyers in the form of higher sales prices for these homes. This will negatively impact the affordability of newly constructed homes and put more new homes out of reach for Veterans. The added costs to build to the 2021 IECC will not result in sufficient energy cost savings to benefit most home buyers. NAHB also views the preliminary determination to have insufficiently considered the impact on the availability of new housing. NAHB encourages you to read the attached letter thoroughly and consider the cost analysis and the research conducted by Home Innovation Research Labs. If the VA has questions regarding these cost estimates, NAHB would be pleased to facilitate a meeting with the researchers from Home Innovation Research Labs who conducted these extensive evaluations to substantiate their findings.

One recent case study presented by DOE's Pacific Northwest National Laboratory (PNNL) at an October 2023 conference hosted by the Energy & Environmental Building Alliance analyzed the cost of compliance with certain energy code requirements based on data from a Habitat for Humanity development in Oregon.⁴ The study showed that the cost of compliance (inclusive of labor and materials) with one of the more problematic measures of the 2021 IECC – exterior foam insulation – was as much as three times higher than the estimates supplied by PNNL and used by HUD in its preliminary determination.

NAHB recommended HUD and USDA conduct their own analysis using current data and accurate information to evaluate the impact this preliminary determination would have on the availability and affordability of newly constructed homes. VA also should conduct further research to determine how this requirement would affect Veterans. If the agencies find the updated codes will have a negative impact on availability or affordability of new housing and exclude users of government programs from purchasing new homes, they should not impose the use of the proposed energy standards.

⁴ Katherine Cort and Patti Gunderson. Pacific Northwest National Laboratory. *Trading Up to Triple Panes: A Code Trade Off Option that Might Get You Higher Performance for Less*. 2023 EEBA High Performance Home Builder Summit. See section "Habitat for Humanity: Trade-off Case Study" beginning at 16 minutes, 19 seconds at <https://www.youtube.com/watch?v=L3x9gbVbXkl&t=979s>. October 10, 2023.

Higher costs will impact first-time and low to moderate income veterans.

The higher cost to comply with the 2021 IECC would result in higher sales prices for these homes. As noted in the attached letter, NAHB surveyed our larger builder members that operate affiliate lending companies to collect and analyze proprietary mortgage data to evaluate the cost impact to home buyers. The results of the survey⁵ were used to evaluate the impact the preliminary determination would have on government lending programs. The data on home buyers that used FHA and USDA financing were included in the August letter. Data collected on VA borrowers revealed that over 80 percent of new homes purchased by buyers using VA financing were priced under \$500,000. This low-to-mid tier price point indicates these homes were likely purchased by low- to moderate-income borrowers. Furthermore, nearly 50 percent of those VA mortgages were made to first-time home buyers. The data clearly indicates that VA financing is an important program that helps first-time and low- to moderate-income Veterans purchase new homes. Home buyers purchasing moderately-priced new homes would experience the greatest negative impact as a result of adopting the revised energy standards because the increased costs would push the house prices out of their reach.

A federal mandate that is inconsistent with state/local building codes would prevent Veterans from using VA financing to purchase newly constructed homes in those areas.

The 2021 IECC is developed as a model code, not a national code. All building codes are adopted and administered at the state and local level. As noted in the preliminary determination, most states have not adopted the 2021 IECC. Many states, such as Florida and Louisiana, have considered the 2021 version and have made amendments that would make the state code non-compliant with this potential mandate. States often adopt amendments to the model code or opt not to adopt the most recent version for reasons based on local circumstances. Therefore, implementation of this proposed rule would result in Veterans across the country being unable to access VA lending programs entirely because their state and local energy codes would not meet the federal HUD/USDA requirements. Requiring new homes to be constructed to the 2021 IECC before builders and other housing industry participants are prepared to comply would make these homes ineligible for VA financing.

Current appraisal process could eliminate the option of 100 percent financing for VA borrowers.

Home builders have long expressed concern that upgrades, including energy efficiency enhancements, often are not accounted for in the appraisal. Even when upgrades are considered and assigned a value by the appraiser, upgrades are not always given the “dollar for dollar” equivalent value versus the cost paid by the home builder. When a home appraises for less than the contract sales price, the borrower is required to pay the difference between the appraised value and the sales price. If the significant costs of the 2021 IECC requirements are not included in the appraised value of a new home, it is unlikely a Veteran can obtain the 100 percent financing the VA program is proud to offer.

⁵ The analysis included data on mortgage originations used to purchase new single-family homes during a three-year period (2020-2022) and included over 65,000 entries for the VA program. The data included sales price, appraisal value, loan amount, loan-to-value ratio, and buyer information.

The VA should carefully consider the impact on Veterans.

Contrary to the preliminary determination, requiring the 2021 IECC codes on virtually all single-family new construction homes insured by HUD, USDA and the VA will undoubtedly have adverse consequences on the affordability and availability of newly constructed housing. The surge in home prices over the last few years and long-term housing supply shortage makes the proposed adoption of the energy codes even more ill-advised. NAHB urges VA to carefully consider the impact this updated code requirement would have on Veterans and their families, particularly those with low- and moderate-incomes.

Thank you for your consideration of our concerns. NAHB would be pleased to provide further data and information to the VA supporting our position and will gladly answer any questions pertaining to our research you may have.

Sincerely,

A handwritten signature in black ink that reads "Jessica R. Lynch". The signature is written in a cursive, flowing style.

Jessica R. Lynch