

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT****[Docket No. FR-4816-N-01]****Notice of Proposed Information Collection: Comment Request; Implementation of the Housing for Older Persons Act of 1995****AGENCY:** Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement established under the final rule implementing the Housing for Older Persons Act of 1995 (HOPA) will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the information collection requirement.

**DATES:** *Comments Due Date:* March 17, 2003.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposed information collection requirement. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Turner Russell, U.S. Department of Housing and Urban Development, 451 7th Street, SW., Room 5210, Washington, DC 20410.

**FOR FURTHER INFORMATION CONTACT:** Turner Russell, Director, Enforcement Support Division, Office of Fair Housing and Equal Opportunity, Room 5208, 451 7th Street, SW., Washington, DC 20410, Telephone: (202) 619-8041 (this is not a toll-free number). Hearing of speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8399.

**SUPPLEMENTARY INFORMATION:** The Department is submitting the proposed information collection requirement to the OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C., Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected, and (4) Minimize the burden of the collection of

information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

*Title of Regulation:* 24 CFR Part 100, Implementation of the Housing for Older Persons act of 1995; final rule.

*OMB Control Number, if applicable:* 2529-0046.

*Description of the need for the information and proposed use:* In the Fair Housing Amendments Act of 1988 (the Act) [42 U.S.C. 3601 *et seq.*], Congress prohibited discrimination in the sale or rental of housing based on familial status (families with children under 18 years of age). However, at § 3607(b)(2) of the act, Congress exempted 3 categories of "housing for older persons" from liability for familial status discrimination: (1) Housing provided under any State or program which the Secretary of HUD determines is specifically designed and operated to assist elderly persons; (2) housing intended for, and solely occupied by, persons 62 years of age or older; and (3) housing intended and operated for occupancy by at least one person 55 years of age or older per unit ("55 or older" housing). In December 1995, Congress passed the "Housing for Older Persons Act of 1995 (HOPA)" [Public Law 104-76]. The HOPA modified the "55 or older" housing exemption provided under the Act by eliminating the requirement for "significant facilities and services specifically designed to meet the physical or social needs of older persons." The HOPA still requires that at least 80 percent of the occupied units must be occupied by at least one person who is 55 years of age or older; and that housing providers must publish and adhere to policies and procedures that demonstrate the intent to provide housing for persons 55 years of age or older. In addition, the HOPA mandates compliance with "rules issued by the Secretary for verification of occupancy, which shall \* \* \* provide for [age] verification by reliable surveys and affidavits."

The final rule does not significantly increase the record keeping burden. It describes in greater detail the documentation that HUD will consider when determining whether or not a community or facility qualifies for the "55 or older" housing exemption. Further, § 100.305(e)(5) of the final rule provides a non-extendible one-year transition period (May 3, 1999-May 3, 2000) for existing communities or facilities that wish to qualify for the "55 or older" housing exemption. An existing community or facility that fails

to complete the transition by the expiration of that period must stop reserving vacant units for "55 or older" residents; market available housing to the general public regardless of familial status; and rescind all policies, practices, and procedures that discriminate against residents with minor children. By definition, such communities would no longer need to collect or maintain occupancy/age verification information for purposes of the "55 or older" housing exemption.

The information collection requirements contained in §§ 100.306 and 100.307 of the final rule are necessary to satisfy the criteria for the "55 and older" housing exemption under the HOPA. The information required under the act, the HOPA, and the HOPA final rule will be collected in the normal course of business in connection with the sale, rental, or occupancy of dwelling units within a "55 or older" housing community or facility. The statutory and regulatory requirement to publish and adhere to age verification policies and procedures for current and prospective occupants is the usual and customary practice of the "senior housing" industry without regard to the requirements of the Act or the HOPA. The procedures for verifying ages of current residents may require an initial survey and periodic review and update of existing records. The creation of such records should occur in the normal course of sale or rental transactions and should require minimal time.

Three types of information would be collected under the final rule. The publication of a community's housing policies and procedures is not confidential by nature of the fact that such policies and procedures must be disclosed to current and prospective residents, and to residential real estate professionals. The occupancy survey results must be available for public inspection. The survey summary need not contain confidential information because it may simply indicate the total number dwelling units occupied by persons 55 years of age or older. The supporting age verification records may contain some private information, which would be protected from disclosure unless the community or facility claims the "55 or older" housing exemption as a defense to a jurisdictional familial status discrimination complaint filed with HUD.

HUD's Office of Fair Housing and Equal Opportunity will only request disclosure of this information by a housing provider when HUD investigates a jurisdictional familial