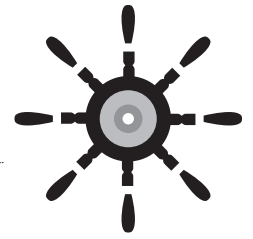


Introduction to the Federal Regulatory Process



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When Congress changes an existing law or creates a new one, federal agencies such as HUD must usually implement the changes or the new law by modifying an existing regulation or by creating a new one. In addition, federal agencies can review existing regulations and amend them even when there are no changes to the underlying law. Both the creation of a new regulation and the modification of an existing regulation provide advocates with an opportunity to shape policy.

Congress passes legislation and the president, by signing that legislation, turns it into a law. Usually, these laws spell out the general intent of Congress but do not include all of the technical details essential to putting Congress' wishes into practice. Regulations add those details.

Two publications are key to the federal regulatory process. The *Federal Register* is a daily publication that contains proposed regulations, final rules, and other official notices and documents issued by the executive branch. All final regulations published in the *Federal Register* are eventually gathered together (“codified”) in the *Code of Federal Regulations* (CFR). The federal government uses the words regulation and rule interchangeably.

SUMMARY OF THE FEDERAL REGULATORY PROCESS

Proposed Regulations. In order to carry out laws, Congress gives federal agencies, such as HUD, the power to write rules to interpret laws and enforce them. When housing law is created or modified, HUD will draft suggested regulations.

Before publishing proposed regulations, HUD must send them to the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA), which has up to 90 days to review their consistency with Executive Order 12866. If OIRA judges the proposed regulations to be inconsistent, they are sent back to HUD “for further consideration.” However, technically, HUD has authority from Congress to issue the rules.

Once cleared by OIRA, HUD must publish a “notice

of proposed rulemaking” in the **Federal Register** that contains the proposed language of the regulations. The public must have an opportunity to submit written comments, and is generally given a 60-day period to comment.

Final Regulations. Once the comment period on a proposed rule is closed, HUD must consider all comments and may make changes based on them. Once those changes are complete, and after another review by OIRA, HUD publishes a final rule in the *Federal Register*.

In the introduction, or preamble, to the final rule, HUD must present all meaningful comments received and explain why each was accepted or rejected. In addition to the actual text of the changed or new regulations, the final rules must state a date when they will go into effect, generally 30 or 60 days in the future.

Other Regulatory Options. In addition to proposed and final rules, the regulatory process can occasionally include:

- **Advanced Notice of Proposed Rulemaking**—HUD can ask for information from the public to help it think about issues before developing proposed regulations.
- **Interim Final Rules**—HUD can issue regulations that are to be followed as if they are final, yet ask for continued public comment on some parts of the rules. Subsequent final rules can include changes based on any additional public comment.
- **Direct Final Rules**—HUD can issue regulations thought to be minor and uncontroversial, but must withdraw them if negative comments are submitted.
- **Negotiated Rulemaking**—This is a seldom-used approach that engages knowledgeable people to discuss an issue and negotiate the language of a proposed regulation, which is then submitted to the *Federal Register*.
- **Petition for Rulemaking**—This is a process by which anyone can submit suggested regulations,

along with supporting data and arguments in support of the suggestions. If HUD agrees, it will publish proposed rules; if HUD denies the petition, the denial must be in writing and include the basis for denial.

- Informal Meetings—HUD has the authority to gather information from people by using informal hearings or other forms of oral presentations. The transcript or minutes of such meetings will be on file in the Rules Docket.

HOW TO FIND PROPOSED AND FINAL REGULATIONS IN THE FEDERAL REGISTER

The Government Printing Office (GPO) publishes the *Federal Register* and the CFR.

The current day's *Federal Register* and links to browse back issues are at <http://1.usa.gov/YlVw4v>. A preview of the next day's *Federal Register* is at <http://1.usa.gov/YlVzgw>. *Federal Register* notices for both proposed and final rules can be tracked by subscribing to a daily email of the table of contents of the *Federal Register* at <http://1.usa.gov/YlVFox>.

The public can read and copy comments made by others at HUD headquarters, or at www.regulations.gov.

That site also provides all rules open for comment and enables electronic submission of comments.

All final rules published in the *Federal Register* are eventually collected and placed in the CFR. There are 50 titles in the CFR, each representing a broad topic. HUD-related regulations are in Title 24. Each title is divided into parts that cover specific program areas. All titles updated through 2015 are available at <https://www.gpo.gov/fdsys/browse/collectionCfr.action;jsessionid=xgU2ToOIFc2XRduhIYthlEKmy6l-hBl8PfvevD0bWPDb-KGWwtq4!1977358174!-358309626?selectedYearFrom=2015&go=Go>. Titles are updated periodically throughout the year.

In addition, the GPO provides the Electronic Code of Federal Regulations (e-CFR). Although it is not an official legal edition of the CFR, it is an editorial compilation of CFR material and *Federal Register* amendments that is updated daily. Access the e-CFR at <http://bit.ly/YlVWrv>.

FOR MORE INFORMATION

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