

## § 10.2

comment early in the rulemaking process for significant rules unless the Secretary grants an exception based upon legitimate and pressing time constraints. Unless required by statute, notice and public procedure will be omitted if the Department determines in a particular case or class of cases that notice and public procedure are impracticable, unnecessary or contrary to the public interest. In a particular case, the reasons for the determination shall be stated in the rulemaking document. Notice and public procedure may also be omitted with respect to statements of policy, interpretative rules, rules governing the Department's organization or its own internal practices or procedures, or if a statute expressly so authorizes. A final substantive rule will be published not less than 30 days before its effective date, unless it grants or recognizes an exemption or relieves a restriction or unless the rule itself states good cause for taking effect upon publication or less than 30 days thereafter. Statements of policy and interpretative rules will usually be made effective on the date of publication.

[44 FR 1606, Jan. 5, 1979, as amended at 47 FR 56625, Dec. 20, 1982]

### § 10.2 Definitions.

(a) *Rule* or *Regulation* means all or part of any Departmental statement of general or particular applicability and future effect designed to: (1) Implement, interpret, or prescribe law or policy, or (2) describe the Department's organization, or its procedure or practice requirements. The term *regulation* is sometimes applied to a rule which has been published in the *Code of Federal Regulations*.

(b) *Rulemaking* means the Departmental process for considering and formulating the issuance, modification, or repeal of a rule.

(c) *Secretary* means the Secretary or the Under Secretary of Housing and Urban Development, or an official to whom the Secretary has expressly delegated authority to issue rules.

### § 10.3 Applicability.

(a) This part prescribes general rulemaking procedures for the issuance,

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amendment, or repeal of rules in which participation by interested persons is required by 5 U.S.C. or by Department policy.

(b) The authority to issue rules, delegated by the Secretary, may not be re-delegated unless expressly permitted.

(c) This part is not applicable to a determination by HUD under 24 CFR part 966 (public housing) or 24 CFR part 950 (Indian housing) that the law of a jurisdiction requires that, prior to eviction, a tenant be given a hearing in court which provides the basic elements of due process ("due process determination").

[44 FR 1606, Jan. 5, 1979, as amended at 61 FR 13273, Mar. 26, 1996]

### § 10.4 Rules docket.

(a) All documents relating to rulemaking procedures including but not limited to advance notices of proposed rulemaking, notices of proposed rulemaking, written comments received in response to notices, withdrawals or terminations of proposed rulemaking, petitions for rulemaking, requests for oral argument in public participation cases, requests for extension of time, grants or denials of petitions or requests, transcripts or minutes of informal hearings, final rules and general notices are maintained in the Rules Docket Room (Room 5218), Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410. All public rulemaking comments should refer to the docket number which appears in the heading of the rule and should be addressed to the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410.

(b) Documents relating to rulemaking proceedings are public records. After a docket is established, any person may examine docketed material at any time during regular business hours, and may obtain a copy of any docketed material upon payment of the prescribed fee. (See part 15 of this title).