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# Part VII

# Department of Housing and Urban Development

## 24 CFR Part 15

## Revision of Freedom of Information Act Regulations; Final Rule

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**24 CFR Part 15**

**[Docket No. FR–4292–F–02]**

**RIN 2501–AC51**

## Revision of Freedom of Information Act Regulations

**AGENCY:** Office of the Secretary, HUD.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends HUD's Freedom of Information Act (FOIA) regulations in their entirety. It implements the statutory requirements of the Electronic Freedom of Information Act (EFOIA) and makes various streamlining and organizational changes to improve the clarity of the regulatory text. Additionally, this rule incorporates a plain language approach to regulatory drafting by adopting a written style that promotes responsive, accessible and understandable written communication. This rule follows the publication of a July 10, 2000 proposed rule and takes into consideration the public comments received on the proposed rule.

**DATES:** *Effective Date:* February 21, 2001.

**FOR FURTHER INFORMATION CONTACT:** Marylea W. Byrd, Assistant General Counsel, FOIA Division, Office of the General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500, Room 10248; telephone (202) 708–3866 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:**

### I. Background

HUD's regulations at 24 CFR part 15 contain the policies and procedures governing public access to HUD records under the Freedom of Information Act (FOIA) (5 U.S.C. 552). Subject to certain statutory exceptions, the FOIA gives persons the right to request and receive a wide range of information from any Federal agency. Congress has amended the FOIA several times since its enactment in 1982. The most recent amendment occurred in 1996 with the enactment of the Electronic Freedom of Information Act (EFOIA) (Public Law 104–231, approved October 2, 1996).

Pursuant to 5 U.S.C. 552(a)(3)(B), EFOIA requires that readily reproducible records be made available in the format requested, including an electronic format, where applicable. EFOIA also requires that agencies make certain information available over ''electronic reading rooms'' on the Internet (5 U.S.C. 552(a)(2)(E)). Additionally, EFOIA modifies the deadlines and procedures for processing FOIA requests to provide faster processing for some requests and to assist agencies in reducing backlogs and delays. For example, EFOIA permits agencies to implement multitrack FOIA processing systems based on the estimated amount of work or time (or both) involved in processing individual FOIA requests (5 U.S.C. 552(a)(6)(D)).

On July 10, 2000 (65 FR 42578), HUD published a proposed rule implementing the statutory directives contained in the EFOIA. In addition to EFOIA-related changes, HUD proposed to revise 24 CFR part 15 in its entirety to improve the clarity of its FOIA requirements and procedures. These proposed changes included the consolidation of HUD's FOIA regulations into a single subpart of 24 CFR part 15 (currently, the FOIA regulations are located in seven separate subparts) and the clarification of procedures for requesting HUD records under FOIA.

Since it is important that the requirements governing public access to HUD's records be clear and readily understandable, HUD also proposed to rewrite its FOIA requirements using plain language. The preamble to the July 10, 2000 proposed rule provides additional details regarding the proposed amendments to 24 CFR part 15.

### II. Significant Differences Between this Final Rule and the July 10, 2000 Proposed Rule

This final rule makes effective the policies and procedures contained in the July 10, 2000 proposed rule and takes into consideration the public comments received on the proposed rule. The major changes made by this final rule in response to public comment are described below. The rationales for these changes are discussed in greater detail in Section III. of this preamble.

(1) *Incorporation of statutory exemptions to FOIA requirements (§ 15.3).* HUD has added a new § 15.3, which contains the nine statutory exemptions to FOIA disclosure authorized under 5 U.S.C. 552(b)(1).

(2) *Clarification of records that are available at HUD's electronic reading room (§ 15.102 (b)).* HUD has modified this paragraph to clarify that, pursuant to EFOIA, only those documents created after November 1, 1996 are maintained on HUD's electronic reading room.

(3) *Address of HUD's electronic reading room (§ 15.103(c)).* HUD has given a more detailed URL for its Internet web site in order to facilitate easier access to the Department's FOIA electronic reading room.

(4) *Estimate of time for HUD to respond under unusual circumstances (§ 15.104(c)).* HUD has clarified that it will provide an estimate of the time needed to respond to a FOIA request in cases where unusual circumstances enable the Department to extend the period for providing a response.

(5) *Determination of effective date for multitrack assignment when a FOIA request is received by the wrong HUD office (§ 15.105 (a)).* HUD has clarified that FOIA requests received by the wrong HUD office will be assigned within their respective tracks according to either the date on which the request was received by the appropriate office or the end of the ten working day period in which the request should have been forwarded to the proper office.

(6) *Assignment of FOIA requests for expedited processing (§ 15.105(b)).* HUD has clarified that a FOIA request may be assigned for expedited processing at the Department's discretion in absence of compelling need pursuant to 5 U.S.C. 552(a)(6)(E)(i).

(7) *FOIA requests misdirected to HUD (§ 15.107).* HUD has clarified that FOIA requests misdirected to HUD are subject to the requirements of 15.104(a).

(8) *FOIA fee schedule (§ 15.110(c)).* HUD has added a section to the FOIA fee schedule to provide that duplication on electronic format such as CD ROM's and diskette will be charged at actual cost.

(9) *Location of FOIA reading rooms (Appendix A).* This final rule codifies the appendix contained in the July 10, 2000 proposed rule. This appendix provides the addresses of FOIA Reading Rooms located in HUD field offices throughout the country and will assist the public in accessing the reading rooms.

### III. Discussion of the Public Comments Received on the July 10, 2000 Proposed Rule

The public comment period on the July 10, 2000 proposed rule closed on September 8, 2000. By close of business on this date, HUD had received 3 public comments. Comments were submitted by a housing authority; a joint comment was submitted by a public interest group and an information clearinghouse; and another joint comment was submitted by various legal aid groups. This section of the

preamble presents a summary of the significant issues raised by the public comments on the July 10, 2000 proposed rule and HUD's responses to these comments.

*Comment: The final rule should retain FOIA statutory exemptions.* The July 10, 2000 proposed rule would have removed regulatory language restating the FOIA statutory exemptions. Two commenters recommended that the final rule retain this language. Additionally, one of the commenters suggested that the exemptions, themselves, be rewritten in plain language.

*HUD Response.* HUD agrees that, for the convenience of readers, the FOIA statutory exemptions listed at 5 U.S.C. 552(b)(1) should be included in the final rule. Accordingly, this rule states the statutory exemptions in a new § 15.3. HUD will not, however, adopt the suggestion that the statutory exemptions be rewritten in plain language since to do so could unintentionally change their legal meaning or application. Thus, the regulatory exemptions language at § 15.3 continues to track the statutory exemptions set forth in FOIA.

*Comment: The rule should clarify those records that are available through HUD's web site.* One commenter suggested that HUD's proposed rule implied that all hard copy records in its reading rooms are also available through HUD's web site and that a clarification is needed to distinguish which records are available only in the reading room.

*HUD Response.* HUD agrees that a clarification is needed to reflect EFOIA's requirement that records created on or after a certain date be made available on the Department's website. Accordingly, HUD has revised § 15.102 to make clear that hard copy records are available in HUD's designated reading rooms and records created on or after November 1, 1996 are also available on HUD's website pursuant to the requirements of FOIA at 5 U.S.C. 552(a)(2)(E).

*Comment: The rule does not adequately explain the reasons HUD may grant itself an extension of time to respond due to a FOIA request because of unusual circumstances or provide a date by which a response is expected.* One commenter wrote that the proposed rule at § 15.104(c) was imprecise because it did not state that HUD would provide the requester with the date on which a response is expected nor with an explanation of the reasons for the delay.

*HUD Response.* The proposed rule at § 15.104(c) clearly stated the three ''unusual circumstances'' that constitute grounds under which HUD may grant itself an extension of time in which to respond to a request. This final rule adopts these provisions of the proposed rule. HUD has, however, modified § 15.104(c) to clarify that a specific estimate of time necessary to respond to the request must be provided to the requester.

*Comment: The standards regarding multitrack processing are too vague.* One commenter wrote that HUD's descriptions of the factors it would use to determine whether to place a request in its ''simple'' or ''complex'' track is too vague to permit requesters to know whether a given request would qualify for the fastest track.

*HUD response.* HUD disagrees with the commenter. This final rule adopts the language of proposed § 15.105(a) establishing the factors that HUD will consider in determining whether to assign a FOIA request to the ''simple'' or ''complex'' track. These include an overall assessment of the time and work associated with obtaining the documents requested with specific consideration given to (1) whether the request involves the processing of voluminous documents and (2) whether the request involves responsive documents from three or more organizational units. It is impracticable under any set of standards to determine with certainty the proper classification of a FOIA request until HUD has actually had the opportunity to evaluate the request. Persons submitting a request for documents should therefore, to the best of their ability at the time of submission, categorize their request in light of these factors.

*Comment: HUD should establish a third track for processing FOIA requests involving electronic information, particularly those requests involving voluminous documents maintained in an electronic format.* One commenter wrote that FOIA requests would be more likely to be assigned to the complex track if the request involved voluminous documents—even in cases where they are maintained in electronic format. Therefore, HUD should establish a third track for the processing of requests for electronically maintained information.

*HUD response.* A FOIA request will not automatically be assigned to the complex track merely because it involves voluminous records. Similarly, a FOIA request for information existing in electronic format does not necessarily qualify it on its face for assignment to the simple track. Whether a particular request involving voluminous documents maintained in electronic format is assigned to the simple or complex track will be determined according to the same standards applicable to all FOIA requests. For example, pursuant to the EFOIA amendments, reprogramming may be necessary in regard to the search and retrieval of electronic records. Such efforts, depending on their extent and complexity, may necessitate assigning a particular request to the complex track even though the information is maintained in an electronic format.

HUD disagrees that a third processing track for requests involving electronically maintained records should be implemented. The Department's proposed two-tiered processing approach provides the best avenue for delineating between different levels of FOIA requests and further change would not promote the efficient processing of these requests.

*Comment: Where requests for classified records are referred to another agency, the processing date should be set as the date the request is received by HUD.* One commenter suggested that the proposed rule at § 15.107 be amended to provide that referrals be processed according to the date HUD received the request and that the requester be given notice of the referral.

*HUD response.* HUD has revised § 15.107 to make clear that the requirements of § 15.104(a) regarding referral of a misdirected request to the appropriate office also apply to § 15.107. The Department will not, however, assert jurisdiction over another agency's processing procedures by mandating that the date HUD receives the misdirected request constitutes the date on which the request is processed by the agency to which it is ultimately referred.

This comment raised an issue concerning how the Department will handle, for processing purposes, the assignment of FOIA requests that have been directed to the wrong office within HUD. Therefore, HUD has revised § 15.105(a) to clarify that where a request has been misdirected within the Department, the date for assigning the request for processing will be the earlier of the date on which (1) the appropriate office received the request or (2) the end of the 10 working day period in which the request should have been referred to the appropriate office under § 15.104(a).

*Comment: The rule does not address duplication charges for electronic media based records.* HUD received a comment that the FOIA fee schedule did not take into account charges for reproduced electronically based media, such as CD ROMs and diskettes.

*HUD response.* HUD has revised proposed § 15.110(c) to add a provision specifying that the amount charged for reproduction of electronically based media such as CD ROMs and diskettes will be actual cost.

*Comment: HUD should increase the information accessible on its website.* One commenter suggested that HUD should continue to build on its existing information systems and provided examples of additional information that HUD should make available on its website.

*HUD response.* While this comment does not involve any suggestions for revisions of the Department's proposed FOIA regulation, per se, HUD is continuing to improve upon and expand customer access to information on the Department's website.

*Comment: The Internet reference to HUD's reading room is not sufficiently specific.* One commenter wrote that the reference to HUD's general website address in § 15.102 is not specific enough to enable the public to readily locate indices and frequently requested materials which the EFOIA requires be maintained online.

*HUD response.* HUD agrees that a citation in the regulation to HUD's specific web address containing the Department's reading room FOIA bookshelf is preferable. HUD has therefore revised § 15.102(b) to reflect the Department's web address for the online FOIA bookshelf contained in the Department's reading room.

*Comment: HUD should insert hypertext links as a part of indices.* One commenter suggested that the value of on-line indices would be enhanced if the indices included hypertext links to information and if they also included detailed explanations of the specific HUD office to which requests for various kinds of information should be directed.

*HUD response.* While this comment does not involve a suggestion for revision of HUD's proposed FOIA regulation, HUD will keep in mind the comment pertaining to the on-line treatment of indices.

*Comment: HUD should adopt an expanded definition for ''located'' in the context of electronic records.* One commenter proposed that HUD adopt a definition for ''located,'' which would specify that electronic records should be considered ''located'' at particular HUD offices if the records are electronically accessible by personnel at those offices, regardless of where the machines on which the records are stored may be located.

*HUD response.* HUD has determined that a definition for ''located'' which would define an electronic record as located anywhere that it can be accessed within the agency would be confusing. While electronic records within the agency can be accessed from more than one particular office, HUD still considers it important that the particular office that has jurisdiction of those records be held accountable for their accuracy and maintenance. Therefore, for purposes of the FOIA, HUD declines to broaden the concept that electronic records are ''located'' anywhere other than within the particular office which has responsibility for those records.

*Comment: HUD should provide an exact date for providing records in response to FOIA requests.* One commenter advised that HUD should provide an exact date by which information will actually be provided after HUD approves a FOIA request and that records should be provided no later than twenty business days after HUD issues its response.

*HUD response.* In the majority of FOIA requests, HUD's response either provides the requested records, provides appropriate exemptions for withholding the records, or both. In other instances, usually at the suggestion of the FOIA requester, the Department will offer the requester the opportunity to inspect the documents, as opposed to providing copies. In some instances, HUD will provide status letters which outline the Department's existing backlog and notifies the requester of their place in HUD's first-in, first-served queue of pending requests. In these instances, it is not practical to provide an exact date in which HUD will respond to the request.

*Comment: HUD should broaden the definition of compelling need for the purpose of granting expedited processing to additional types of FOIA requests.* One commenter proposed that HUD expand the statutory bases of ''compelling need,'' contained in § 15.105(b), to include circumstances involving expiring Section 8 subsidy contracts. The commenter also suggested that the regulation be revised to reflect that HUD is not limited to the statutory bases of compelling need in order to grant expedited processing.

*HUD response.* The statutory definition of compelling need limits such a finding to circumstances evidencing an imminent threat to life or safety or, in the case of a person primarily engaged in the dissemination of information, a need to inform the public about actual or alleged federal government activity. HUD may, however, assign FOIA requests for expedited processing where appropriate despite the absence of compelling need. Accordingly, HUD has revised the rule to reflect this discretion pursuant to 5 U.S.C. 552(a)(6)(E)(i).

*Comment: HUD should withhold information only if there is a need in the public interest to withhold it.* One commenter proposed that HUD reintroduce a provision from its present regulation at § 15.21 that the Department would only withhold a requested record if it came within one of FOIA exemptions and there is a need in the public interest to withhold it.

*HUD response.* HUD follows the FOIA policy guidance set forth by President Clinton and Attorney General Reno in their October 1993 statements and has determined not to promulgate any criteria in its regulations concerning disclosure of information which might be at variance with those statements. While both statements enunciated standards for the treatment and disclosure of records under the FOIA, neither statement contained an explicit requirement that records not be withheld unless, in addition to applicability of FOIA's exemptions, there ''is a need in the public interest to withhold [the records].'' HUD has therefore determined that the revised rule better conforms with the policy statements of the President and the Attorney General.

*Comment: HUD should specifically allow disclosure of certain housing project financial information pursuant to the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA).* One commenter proposed that § 15.109(a) be revised to allow release of information from profit and loss statements of housing projects to HUD residents, tenant organizations, and their representatives in the context of multifamily operations and restructuring activities, citing the Multifamily Assisted Housing Reform and Affordability Act of 1997 (Title V of the Fiscal Year 1998 HUD Appropriations Act, Public Law 105–65, approved October 27, 1997) (MAHRA).

*HUD response.* Section 514(f) of MAHRA requires HUD to establish procedures to provide an opportunity for tenants of projects, residents of the neighborhood, the local government, and other affected parties to participate effectively and on a timely basis in restructuring activities of multifamily housing projects. To this end, HUD is working on a proposed rule implementing the statutory directives of MAHRA which will include procedures under which certain information will be made available to tenants and other groups pursuant to MAHRA. Accordingly, HUD has determined that the proposed MAHRA rule is the proper vehicle for dealing with the types of information to be released under MAHRA and the procedures for making that information available.

*Comment: HUD should waive fees for certain low income individuals and constituent groups.* One commenter proposed that HUD waive fees for certain requesters, including low-income HUD residents and homeowners, tenant organizations, advocates representing low-income residents, homeowners or tenant organizations and HUD funded technical assistance grantees. In the alternative, the commenter suggested that these requesters be included in the existing category for news media and educational and scientific research.

*HUD response.* HUD's determination of whether a request for a fee waiver or reduction is warranted is governed by whether disclosure of the information is in the public interest because it is (1) likely to contribute significantly to public understanding of the operations or activities of the government and (2) is not primarily in the commercial interest of the requester. In making this determination, HUD follows fee waiver guidance issued by the Department of Justice. HUD does not believe it prudent to provide blanket fee waivers to any particular individuals or groups. Instead, any requester who requests a fee waiver or reduction should justify in light of statutory and regulatory provisions why they qualify for such a waiver or reduction.

Additionally, the FOIA prescribes certain categories of fee requesters and the types of fees which can be assessed to these requesters. The individuals and groups mentioned by the commenter ordinarily would not qualify for a waived or reduced fee assessment as news media or educational and scientific research requesters.

## IV. Findings and Certifications

*Environmental Impact*

This rule is categorically excluded from environmental review under the National Environmental Policy Act (42 U.S.C. 4321). The revision of the FOIA-related provisions of 24 CFR part 15 falls within the exclusion provided by 24 CFR 50.19(c)(1), in that it does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy.

*Regulatory Flexibility Act*

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this rule before publication and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities because the rule is procedural. Accordingly, the rule would not have any impact on the substantive rights or duties of small entities requesting HUD records under the Freedom of Information Act. Furthermore, the fees charged under this rule are limited by FOIA to direct costs of searching for, reviewing, and duplicating the records processed for requesters and are not economically significant.

*Executive Order 13132, Federalism*

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This final rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

*Unfunded Mandates*

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and on the private sector. This final does not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the Unfunded Mandates Reform Act of 1995.

**List of Subjects in 24 CFR Part 15**

Classified information, Courts, Freedom of information, Government employees, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, HUD amends 24 CFR part 15 as follows:

## PART 15—PUBLIC ACCESS TO HUD RECORDS UNDER THE FREEDOM OF INFORMATION ACT AND TESTIMONY AND PRODUCTION OF INFORMATION BY HUD EMPLOYEES

1. Revise the heading of part 15 to read as set forth above.

2. The authority citation for part 15 is revised to read as follows:

**Authority:** 42 U.S.C. 3535(d).

Subpart A also issued under 5 U.S.C. 552.

Section 15.107 also issued under E.O. 12958, 60 FR 19825, 3 CFR Comp., p. 333.

Subparts C and D also issued under 5 U.S.C. 301.

3. Revise subpart A to read as follows:

## Subpart A—Purpose and Policy

Sec.
§ 15.1 What is the purpose of this part?
§ 15.2 What definitions apply to this part?
§ 15.3 What exemptions are authorized by 5 U.S.C. 552?

### § 15.1 What is the purpose of this part?

(a) *Subpart B of this part.* Subpart B of this part describes the procedures by which HUD makes documents available under the Freedom of Information Act (FOIA) (5 U.S.C. 552). Subpart A of this part applies to all HUD organizational units; however, applicability of subpart A to the Office of the Inspector General is subject to parts 2002 and 2004 of the title.

(b) *Subpart C of this part.* Subpart C of this part describes the procedures HUD follows in responding to subpoenas or demands of courts and other agencies to produce or disclose documents.

(c) *Subpart D of this part.* Subpart D of this part describes the procedures HUD follows concerning the testimony of its employees in legal proceedings.

(d) *Inapplicability of subparts B and C to Office of Inspector General.* Subparts B and C of this part do not apply to employees in the Office of the Inspector General. The procedures that apply to employees in the Office of the Inspector General are described in part 2004 of this title.

### § 15.2 What definitions apply to this part?

The following definitions apply to this part.

(a) *Terms defined in part 5 of this title.* The terms *HUD, Secretary,* and *Organizational unit* are defined in part 5 of this title.

(b) Other terms used in this part. As used in this part:

*Business information* means commercial or financial information provided to HUD by a submitter that arguably is protected from disclosure under Exemption 4 (42 U.S.C. 552(b)(4)) of FOIA.

*Duplication* means the process of making a copy of a document necessary to respond to a FOIA request. Such copies can take the form of paper copy, microfilm, audio-visual materials, or machine readable documentation (*e.g.,* magnetic tape or disk), among others.

*Educational institution* means:

(1) A preschool;

(2) A public or private elementary or secondary school;

(3) An institution of graduate higher education;

(4) An institution of undergraduate higher education;

(5) An institution of professional education; or

(6) An institution of vocational education, that primarily (or solely) operates a program or programs of scholarly research.

*Employee of the Department* means a current or former officer or employee of the United States appointed by or subject to the supervision of the Secretary, but does not include an officer or employee covered by part 2004 of this title.

*FOIA* means the Freedom of Information Act (5 U.S.C. 552).

*Legal proceeding* includes any proceeding before a court of law or other authority, i.e., administrative board or commission, hearing officer, arbitrator or other body conducting a quasi-judicial or legislative proceeding.

*Legal proceeding among private litigants* means any legal proceeding in which the United States is not a party.

*Legal proceeding in which the United States is a party* means any legal proceeding including as a named party the United States, the Department of Housing and Urban Development, or any other Federal executive or administrative agency or department, or any official thereof in his official capacity.

*News* means information that is about current events or that would be of current interest to the public.

*Person* means person as defined in 5 U.S.C. 551(2). It includes corporations and organizations as well as individuals.

*Review* means the process of examining a document located in response to a request to determine whether any portion of it may be withheld, excising portions to be withheld, and otherwise preparing the document for release. Review time includes time HUD spends considering any formal objection to disclosure made by a submitter under § 15.108. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

*Search* includes all time spent looking manually or by automated means for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents.

*Submitter* means any person or entity who provides business information, directly or indirectly, to HUD. The term includes, but is not limited to, corporations, State governments, and foreign governments.

**§ 15.3 What exemptions are authorized by 5 U.S.C. 552?**

(a) The classes of records authorized to be exempted from disclosure by 5 U.S.C. 552 are those which concern matters that are:

(1) Specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order;

(2) Related solely to the internal personnel rules and practices of the Department;

(3) Specifically exempted from disclosure by statute;

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Interagency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the Department;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a state, local or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual;

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of the Department in connection with its responsibility for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

(b) Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this section.

4. Revise subpart B to read as follows:

## Subpart B—FOIA Disclosure of Information

Sec.

15.101 What is HUD's overall policy concerning disclosing identifiable records?
15.102 Where and when may I inspect and copy records that FOIA requires HUD to make regularly available to the public?
15.103 How can I get other records from HUD?
15.104 What are the time periods for HUD to respond to my request for records?
15.105 How will HUD process my request?
15.106 How will HUD respond to my request?
15.107 How does HUD handle requests that involve classified records?
15.108 What are HUD's policies concerning designating confidential commercial or financial information under Exemption 4 of the FOIA and responding to requests for business information?
15.109 How will HUD respond to a request for information from Form HUD–92410 (Statement of Profit and Loss)?
15.110 What fees will HUD charge?
15.111 How do I appeal a denial of my request for records or a fee determination?
15.112 How will HUD respond to my appeal?

**§ 15.101 What is HUD's overall policy concerning disclosing identifiable records?**

HUD will fully and responsibly disclose its identifiable records and information consistent with competing public interests concerning the national security, personal privacy, agency deliberative process, and obligations of confidentiality as are recognized by FOIA. HUD will make a record available in the form or format requested, if the record is readily reproducible in that format.

**§ 15.102 Where and when may I inspect and copy records that FOIA requires HUD to make regularly available to the public?**

(a) You may inspect and copy hardcopy records, including indices of the records, that section 552(a)(2) of FOIA requires HUD make available to the public at HUD's reading rooms. HUD has reading rooms in Headquarters in Washington, DC and in each of the Secretary's Representative's offices. These reading rooms are open during

the business hours for the HUD office in which they are located.

(b) For records created on or after November 1, 1996, this information is also available to you through HUD's Internet web site at http://www.hud.gov/ogc/bshelf2a.html.

**§ 15.103 How can I get other records from HUD?**

(a) *Generally.* You may submit a written request for copies of records in person or by mail.

(b) *Records located in a HUD field office.* If you are submitting a request for records located in a HUD field office, you should deliver or mail your request to the FOIA Liaison in the appropriate HUD Field Office.

(c) *Records located in HUD headquarters.* If you are submitting a request for records located in HUD Headquarters, you should deliver or mail your request to the FOIA Division, Office of the General Counsel. You may also use the FOIA electronic request form on HUD's Internet web site at http://www.hud.gov/ogc/foiafree.html.

(d) *What should I include in my FOIA request?* In your FOIA request you should:

(1) Clearly state that you are making a FOIA request. Although Federal agencies are required to process all requests for documents as Freedom of Information Act requests, whether or not specifically designated as FOIA requests, failure to clearly state that you are making a FOIA request could unduly delay the initial handling of your correspondence through HUD's FOIA processing;

(2) Reasonably describe the records you seek. Include information that you may know about the documents you are requesting;

(3) Indicate the form or format in which you would like the record made available;

(4) State your agreement to pay the fee. You may specify a dollar amount above which you want HUD to consult with you before you will agree to pay the fee;

(5) Indicate the fee category that you believe applies to you (see § 15.110);

(6) If you are making a request on behalf of another person for information about that person, include a document signed by that person authorizing you to request the information on his or her behalf; and

(7) If you are requesting expedited processing, your request should set out the facts you believe show that there is a compelling need (see § 15.104(d)) to expedite processing of your request.

**§ 15.104 What are the time periods for HUD to respond to my request for records?**

(a) *What time limits generally apply?* If you have met the fee requirements of § 15.110, HUD, in general, will respond within 20 working days after the correct office receives your request. If you have sent your request to the wrong office, that office will send it to the correct office within 10 working days and will send you an acknowledgment letter.

(b) *What time limits apply to requests made on behalf of another person?* The time limits described in paragraph (a) of this section also apply to requests you make on behalf of another person for information about that person. However, the time limits will not commence to run until HUD's receipt of the document signed by that person authorizing you to request information on his or her behalf. If you make your request on behalf of another person without including such signed authorization, HUD will inform you of the authorization needed.

(c) *What time limits apply in unusual circumstances?* If you have requested an especially large number of records, the records are not located in the office handling the request, or HUD needs to consult with another government office, HUD will notify you that extra time is required and provide an estimate of that time. If the extra time needed is more than 10 working days beyond the general time limit set out in paragraph (a) of this section, HUD will offer you any opportunity to limit the scope of your request so that HUD may process it within the extra 10 working day period.

(d) *What time limits apply to my request for expedited processing?* If you requested expedited processing, HUD will notify you within 10 working days after it receives your request whether it will grant expediting processing.

**§ 15.105 How will HUD process my request?**

(a) *Multitracking.* (1) HUD places each request in one of two tracks. HUD places requests in its simple or complex track based on the amount of work and time involved in processing the request. Factors HUD will consider in assigning a request in the simple or complex track will include whether the request involves the processing of voluminous documents and/or whether the request involves responsive documents from three or more organizational units. Within each track, HUD processes requests in the order in which they are received.

(2) For requests that have been sent to the wrong office, HUD will assign the request within each track using the earlier of either:

(i) The date on which the request was referred to the appropriate office; or,

(ii) The end of the 10 working day period in which the request should have been referred to the appropriate office under § 15.104(a).

*(b) Expedited processing.* HUD may take your request or appeal out of normal order if HUD determines that you have a compelling need for the records or in other cases as determined by the agency. If HUD grants your request for expedited processing, HUD will give your request priority and will process it as soon as practicable. HUD will consider a compelling need to exist if:

(1) Your failure to obtain the requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual or a threatened loss of substantial due process rights; or,

(2) You are primarily engaged in disseminating information and there is an urgency to inform the public concerning actual or alleged Federal Government activity.

**§ 15.106 How will HUD respond to my request?**

(a) *Who will respond to my request?* (1) The FOIA Division of the Office of General Counsel in HUD Headquarters and the FOIA liaisons in each HUD Field Office are authorized to release copies of any HUD records unless disclosure is clearly not appropriate under FOIA.

(2) The FOIA Division in HUD Headquarters and the FOIA liaisons in each HUD Field Office may deny a request for a record in accordance with the provisions of FOIA and this part.

(b) *What type of a response will I receive?* Within the time limit described in § 15.103, HUD will either:

(1) Agree to give you all the records you requested;

(2) Advise you that HUD will not give you some or all of the records you requested. Any denial or partial denial of a requested record must be concurred in by the FOIA Division in Headquarters, by counsel in the Field Offices, or by counsel in HUD's Departmental Enforcement Center Satellite Offices. In this case, HUD will:

(i) Explain why it has decided not to comply fully with your request, citing specific exemptions where applicable;

(ii) Describe the records denied or, if there are fewer than 21 records denied, list them specifically;

(iii) Estimate the volume of the records denied unless doing so would harm a protected interest; and

(iv) Explain how to appeal that decision, and provide the name and

address of the HUD official to whom you should submit your appeal.

(3) Tell you that HUD's estimate of the fee is more than you have agreed to pay and ask to confer within 10 days to see if you can reformulate your request so that HUD can meet your request at a fee that is acceptable to you; or

(4) Tell you that you will not receive a response until you have either paid your fee or committed to the amount of fee you will pay, as applicable, and will provide you 10 days to pay, or commit to pay, the fee.

(5) If you requested expedited processing, advise you whether your request is granted or denied and, if your request is denied, advise you of your right to appeal.

(c) *What action may HUD take if I fail to respond?* If you fail to respond within a period specified in this subpart, HUD may consider your request for records withdrawn and may terminate processing of your request.

**§ 15.107 How does HUD handle requests that involve classified records?**

If your request involves the release of documents that are classified under Executive Order 12958, HUD will refer your request and the pertinent documents to the originating agency for processing according to the requirements of § 15.104(a). HUD may refuse to confirm or deny the existence of the requested information if the originating agency determines that the fact of its existence is itself classified.

**§ 15.108 What are HUD's policies concerning designating confidential commercial or financial information under Exemption 4 of the FOIA and responding to requests for business information?**

(a) *HUD's general policy concerning business information which may be considered as confidential commercial or financial information.* Except as provided in this section or otherwise required by law, HUD officers and employees may not disclose business information which is considered as confidential commercial or financial information to anyone other than to HUD officers or employees who are properly entitled to the information to perform their official duties.

(b) *How does a submitter make a claim that business information is confidential commercial or financial information?* (1) If you are a submitter, you may request confidential treatment of business information at the time the information is submitted to HUD or within a reasonable time after it is submitted.

(2) To obtain a designation of confidentiality, you must:

(i) Support your request with an authorized statement or a certification giving the facts and the legal justification for your request and stating that the information has not been made public; and

(ii) Clearly designate the information that you consider confidential.

(3) Your designation of confidentiality will expire 10 years after the date the information was submitted to HUD, unless you have provided a reasonable explanation for a later expiration date.

(c) *How will HUD respond to a request for business information?* If the information requested has been designated in good faith by the submitter as information to be protected under 5 U.S.C. 552(b)(4) (''Exemption 4'') or if HUD has reason to believe that the information may be protected by Exemption 4, HUD shall:

(1) Unless an exception in paragraph (c)(2) of this section applies, promptly notify the submitter about the request or the administrative appeal and give the submitter 10 working days to submit a written objection to disclosure. HUD will describe the requested business information or will provide copies of all or a portion of the records;

(2) If any of the following circumstances apply, HUD will not notify the submitter:

(i) HUD determines that the information should not be disclosed;

(ii) The information has been published lawfully or has been made available officially to the public;

(3) A law other than FOIA requires HUD to disclose the information;

(4) A HUD regulation requires HUD to disclose the information. The regulation must:

(i) Have been adopted pursuant to notice and public comment; and

(ii) Specify narrow classes of records submitted to HUD that are to be released under the FOIA.

(d) *Notice to requester.* At the same time HUD notifies the submitter, HUD will also notify the requester that the request is subject to the provisions of this section and that the submitter is being afforded an opportunity to object to disclosure of the information.

(e) *Opportunity to object to disclosure.* If the submitter timely objects to disclosure, HUD will consider the submitter's objections, but will not be bound by them. HUD generally will not consider conclusory statements that particular information would be useful to competitors or would impair sales, or other similar statements, sufficient to justify confidential treatment. Information provided by a submitter or its designee may itself be subject to disclosure under the FOIA.

(f) *Notice of intent to disclose.* If after considering the submitter's objections, HUD decides to disclose business information over the objection of a submitter, HUD will send a written notice of intent to disclose to both the submitter and the requester. HUD will send these notices at least 10 working days before the specified disclosure date. The notices will include:

(1) A statement of the reasons why HUD rejected the submitter's disclosure objections;

(2) A description of the business information to be disclosed; and

(3) A disclosure date.

(g) *What other policies apply to a submitter?*

(1) *HUD notice of FOIA lawsuit.* HUD will promptly notify the submitter of any suit to compel HUD to disclose business information.

(2) *Determination of confidentiality.* HUD will not determine the validity of any request for confidentiality until HUD receives a request for disclosure of the information.

(3) *Current mailing address for the submitter.* Each submitter must give HUD a mailing address for receipt of any notices under this section, and must notify HUD of any change of address.

**§ 15.109 How will HUD respond to a request for information from Form HUD–92410 (Statement of Profit and Loss)?**

(a) *To whom will HUD disclose the information?* HUD will release information from Form HUD–92410 (or a HUD approved substitute form that the mortgagor may have submitted) only to eligible potential purchasers and only during the period specified by HUD for the mortgage sale.

(b) *Under what conditions will HUD release such information?* HUD will release the information only if all of the following three conditions are met:

(1) The information concerns a project that is subject to a HUD-held mortgage which HUD is selling under the authority of sections 207 (k) and (l) of the National Housing Act (12 U.S.C. 1713 (k) and (l)) or section 7(i)(3) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(i)(3)).

(2) The eligible potential purchasers have agreed to:

(i) Keep the information confidential;

(ii) Disclose the information only to potential investors in the mortgage and only for the period specified by HUD for the mortgage sale and to notify those potential purchasers of their obligations under this section;

(iii) Use the information only to evaluate the mortgage in connection with the mortgage sale; and

(iv) To follow disclosure procedures for that sale that have been established by the Secretary.

(3) The potential investors in the mortgage have agreed to keep the information confidential and to use the information only to evaluate the mortgage in connection with their investment decision.

(c) *To whom may potential investors disclose such information?* Potential investors in the mortgage may disclose the information to other entities only if the disclosure is:

(1) Necessary for the investor's evaluation of the mortgage;

(2) Made in accordance with disclosure procedures for the specific sale that have been established by HUD; and

(3) Limited to the period specified by HUD for the mortgage sale.

(d) *What sanctions are available for improper disclosure of such information?* An eligible potential purchaser or a potential investor (who has received the information from a potential purchaser and has been notified by that entity of its obligations under paragraph (b) of this section), who discloses information from Form HUD–92410 in violation of this section, may be subject to sanctions under part 24 of this title.

**§ 15.110 What fees will HUD charge?**

(a) *How will HUD determine your fee?* HUD will determine your fee based on which category of requester you are in and on the other provisions of this section. With your request, you should submit information to help HUD determine the proper category. If HUD cannot tell from your request, or if HUD has reason to doubt the use to which the records will be put, HUD will ask you to provide additional information before assigning the request to a specific category.

(b) *What are the categories of requesters?* (1) *Commercial use requester.* You are a commercial use requester if you request information for a use or purpose that furthers your commercial, trade, or profit interests or those interests of the person on whose behalf you have made the request. In determining whether your request properly belongs in this category, HUD determines the use to which you will put the documents requested.

(2) *Educational requester.* You are an educational requester if your request is on behalf of an educational institution and you do not seek the records for a commercial use, but to further scholarly research.

(3) *Non-commercial scientific requester.* You are a non-commercial scientific requester if you are not a commercial use requester and your request is on behalf of an organization that is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(4) *Representative of the news media requester.* (i) You are a representative of the news media requester if you actively gather news for an entity that is primarily organized and operated to publish or broadcast news to the public.

(ii) Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of news) who make their products available for purchase or subscription by the general public.

(iii) Freelance journalists may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it. A publication contract would be the clearest proof, but HUD may also look to the past publication record of a requester in making this determination.

(iv) If you are a representative of the news media requester, HUD will not consider you to be a commercial use requester.

(5) *Other requester.* You are considered an ''other'' requester if you do not fall within the categories of requesters described in this paragraph (b).

(c) *FOIA Fee Schedule.* The following table sets out the Fee Schedule that HUD uses to determine your fee. The rates for professional and clerical search and review includes the salary of the employee performing the work. The duplication cost includes the cost of operating duplicating machinery. The computer run time includes the cost of operating a central processing unit for that portion of the operating time attributable to searching for responsive records, as well as the costs of operator/programmer salary apportionable to the search. HUD's fee schedule does not include overhead expenses such as costs of space and heating or lighting the facility in which the records are stored.

FOIA FEE SCHEDULE

| Activity | Rate | Commercial use requester | News media, educational research, or scientific research requester | Other requester |
|---|---|---|---|---|
| (1) Professional search | $37.00 per hour | Applies | Does not apply | Applies. No charge for first two hours of cumulative search time. |
| (2) Professional review | $37.00 per hour | Applies | Does not apply | Does not apply. |
| (3) Clerical search | $16.35 per hour | Applies | Does not apply | Applies. No charge for first two hours of cumulative search time. |
| (4) Clerical review | $16.35 per hour | Applies | Does not apply | Does not apply. |
| (5) Programming services | $35.00 per hour | Applies | Does not apply | Applies. |
| (6) Computer run time (includes only mainframe search time not printing). | The direct cost of conducting the search. | Applies | Does not apply | Applies. |
| (7) Duplication costs | $0.15 per page | Applies | Applies. No charge for first 100 pages. | Applies. No charge for first 100 pages. |
| (8) Duplication costs—tape, CD ROM or diskette. | Actual Cost | Applies | Applies | Applies. |

(d) *How does HUD assess review charges?* HUD will assess review charges only for the first time it analyzes the applicability of a specific exemption to a particular record or portion of a record. HUD will not charge for its review at the administrative appeal level of an exemption already applied. If HUD has withheld in full a record or portions of a record under an exemption which is subsequently determined not to apply, HUD will assess charges for its review to determine the applicability of other exemptions not previously considered.

(e) *How does HUD handle multiple requests?* If you, or others acting with you, make multiple requests at or about the same time for the purpose of dividing one request into a series of requests for the purpose of evading the assessment of fees, HUD will aggregate your requests for records. In no case will HUD give you more than the first two hours of search time, or more than the first 100 pages of duplication without charge.

(f) *Unsuccessful searches.* If HUD's search for records is unsuccessful, HUD will still bill you for the search.

(g) *No charge for costs under $25.* HUD will not charge you a fee if the total amount calculated under this section is less than $25.00.

(h) *Reducing fees in the public interest.* If HUD determines that disclosure of the information you seek is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, and that you are not seeking the information for your own commercial interests, HUD may waive or reduce the fee.

(i) *When do I pay the fee?* HUD will bill you when it responds to your request. You must pay within thirty-one calendar days. If the fee is more than $250.00 or you have a history of failing to pay FOIA fees in a timely manner, HUD will ask you to remit the estimated amount and any past due charges before sending you the records.

(j) *What happens if I do not pay the fees?* (1) If you do not pay by the thirty-first day after the billing date, HUD will charge interest at the maximum rate allowed under 31 U.S.C. 3717.

(2) If you do not pay the amount due within ninety calendar days of the due date, HUD may notify consumer credit reporting agencies of your delinquency.

(3) If you owe fees for previous FOIA responses, HUD will not respond to further requests unless you pay the amount due.

(k) *Contract services.* HUD will contract with private sector sources to locate, reproduce and disseminate records in response to FOIA requests when that is the most efficient method. When doing so HUD will charge the cost to the requester that the private sector source has charged HUD for performing these tasks. In some instances, these costs may be higher than the charges HUD would ordinarily charge if the processing tasks had been done by the agency itself. In no case will HUD contract out responsibilities which the FOIA provides that HUD alone may discharge, such as determining the applicability of an exemption, or determining whether to waive or reduce fees. HUD will ensure that, when documents that would be responsive to a request are maintained for distribution by agencies operating statutory-based fee schedule programs such as the National Technical Information Service, HUD will inform requesters of the steps necessary to obtain records from those sources. Information provided routinely in the normal course of business will be provided at no charge.

**§ 15.111 How do I appeal a denial of my request for records or a fee determination?**

(a) *To what address do I submit my appeals?* You must submit your appeal, in writing, to the address specified in HUD's notice responding to your FOIA request (see § 15.106(a)(2)(iv)). If you send your appeal to the wrong HUD office, that office will forward it to the correct office. That office will also notify you that it has so forwarded your appeal and advise you that, for processing purposes, the time of receipt will be when the appropriate office receives your appeal.

(b) *How much time do I have to submit an appeal?* Your written appeal must be postmarked within 30 calendar days of the date of the HUD determination from which you are appealing. If your appeal is transmitted by other than the United States Postal Service (i.e., facsimile, messenger or delivery service) it must be received in the appropriate office by close of business on the 30th calendar day after the date of the HUD determination.

(c) *What information must I provide if I am appealing a denial of request for information?* If you are appealing a denial of your request for information, the appeal must contain the following information:

(1) A copy of your original request;

(2) A copy of the written denial of your request; and

(3) Your statement of the facts and legal arguments supporting disclosure.

(d) *What information must I provide if I am appealing a fee determination?* If you are appealing a fee determination, including a denial of your request for HUD to waive the fee, the appeal must contain the following information:

(1) The address of the office which made the fee determination from which you are appealing;

(2) The fee that office charged;

(3) The fee, if any, you believe should have been charged;

(4) The reasons you believe that your fee should be lower than the fee which the Agency charged or should have been waived; and

(5) A copy of the initial fee determination and copies of any correspondence concerning the fee.

(e) *What information must I provide if I am appealing a denial of expedited processing?* If you are appealing a denial of your request for expedited processing, your appeal must contain the following information:

(1) A copy of your original request;

(2) A copy of the written denial of your request; and

(3) Your statement of the facts and legal arguments supporting expedited processing.

**§ 15.112 How will HUD respond to my appeal?**

(a) *How much time does HUD have to decide my appeal?* HUD will decide your appeal of a denial of expedited processing within 10 working days after its receipt. For any other type of appeal, HUD will decide your appeal within 20 working days after its receipt. HUD may have an additional 10 working days if unusual circumstances require.

(b) *What action will HUD take if it grants my appeal?*

(1) *Appeal of a denial of request for information.* If you are appealing a decision to deny your request for records, HUD will either:

(i) Give you the records you requested or advise you that the records will be provided by the originating office;

(ii) Give you some of the records you requested while declining to give you other records you requested, tell you why HUD has concluded that the documents were exempt from disclosure under FOIA, and tell you how to obtain judicial review of HUD's decision; or

(iii) Decline to give you the records you requested, tell you why HUD has concluded that the records were exempt from disclosure under FOIA, and tell you how to obtain judicial review of HUD's decision.

(2) *Appeal of a fee determination.* If you are appealing a fee determination, HUD will either:

(i) Waive the fee or charge the fee that you have requested;

(ii) Modify the original fee charged, and explain why it has determined that the modified fee is appropriate; or

(iii) Advise you that the original fee charged was appropriate, and explain why it has determined that the fee is appropriate.

(3) *Appeal of a denial of expedited processing.* If you are appealing a denial of your request for expedited processing, HUD will either:

(i) Agree to expedited processing of your request; or

(ii) Advise you that the decision to deny expedited processing has been affirmed, and tell you how to obtain judicial review of HUD's decision.

## Subparts C, D, E, F, G, and J [Removed]

5. Remove subparts C, D, E, F, G, and J.

6. Redesignate subpart H, consisting of §§ 15.71 through 15.74, as subpart C, consisting of §§ 15.201 through 15.204, to read as follows:

## Subpart C—Production In Response to Subpoenas or Demands of Courts or Other Authorities

Sec.
15.201 Purpose and scope.
15.202 Production or disclosure prohibited unless approved by the Secretary.
15.203 Procedure in the event of a demand for production or disclosure.
15.204 Procedure in the event of an adverse ruling.

7. In newly designated § 15.201, the undesignated paragraph is redesignated as paragraph (a) and a new paragraph (b) is added to read as follows:

### § 15.201 Purpose and scope.

* * * * *

(b) The term ''legal proceeding'' has the meaning given in § 15.301(b).

### § 15.203 [Amended]

8. In newly designated § 15.203(a), revise the reference to ''§ 15.71'' to read ''§ 15.201''.

### § 15.204 [Amended]

9. In newly designated § 15.204, revise the reference to ''§ 15.73(b)'' to read ''§ 15.203(b)''.

### §§ 15.81 through 15.85 [Redesignated as §§ 15.301 through §§ 15.305]

10. Redesignate subpart I, consisting of §§ 15.81 through 15.85, as subpart D, consisting of §§ 15.301 through 15.305, to read as follows:

## Subpart D—Testimony of Employees in Legal Proceedings

Sec.
15.301 Purpose.
15.302 Testimony in proceedings in which the United States is a party.
15.303 Legal proceedings among private litigants; general rule.
15.304 Legal proceedings among private litigants; subpoenas.
15.305 Legal proceedings among private litigants; expert or opinion testimony.

### § 15.304 [Amended]

11. In newly designated § 15.304, revise the reference to ''§§ 15.71–15.74'' to read ''§§ 15.201 through 15.204''.

12. Add appendix A to part 15 to read as follows:

## Appendix A to Part 15

### HUD FOIA Reading Rooms

The Department maintains a reading room in Headquarters, 451 Seventh Street, SW., Washington, DC 20410 and in each of its Secretary's Representative's Offices as follows:

*New England,* Boston Office—Room 375, Thomas P. O'Neill, Jr. Federal Building, 10 Causeway Street, Boston, Massachusetts 02222–1092. The New England Office oversees jurisdiction for HUD Offices located in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, and Rhode Island.

*New York/New Jersey,* New York Office—26 Federal Plaza, New York, New York 10278–0068. The New York/New Jersey Office oversees jurisdiction for HUD Offices located in New York and New Jersey.

*Mid Atlantic,* Philadelphia Office—Liberty Square Building, 105 South 7th Street, Philadelphia, Pennsylvania 19106–3392. The Mid Atlantic Office oversees jurisdiction for HUD Offices located in Pennsylvania, Delaware, Maryland, Virginia, and West Virginia.

*Southeast/Caribbean,* Atlanta Office—Five Points Plaza Building, 40 Marietta St., Atlanta, Georgia 30303. The Southeast/Caribbean Office oversees jurisdiction for HUD Offices located in Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Florida, and Puerto Rico.

*Midwest,* Chicago Office—Ralph Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, Illinois 60604–3507. The Midwest Office oversees jurisdiction for HUD Offices located in Illinois, Indiana, Ohio, Michigan, Wisconsin, and Minnesota.

*Southwest,* Fort Worth Office—Burnett Plaza Building, 801 Cherry Street, Fort Worth, Texas 76102. The Southwest Office oversees jurisdiction for HUD Offices located in Oklahoma, Texas, Arkansas, Louisiana, and New Mexico.

*Great Plains,* Kansas City Office—Room 200, Gateway Tower II, 400 State Avenue, Kansas City, Kansas 66101–2406. The Great Plains Office oversees jurisdiction for HUD Offices located in Missouri, Iowa, Kansas, and Nebraska.

*Rocky Mountain,* Denver Office—633 17th Street, Denver, Colorado 80202–3607. The Rocky Mountain Office oversees jurisdiction for HUD Offices located in Colorado, Utah, Wyoming, North Dakota, South Dakota, and Montana.

*Pacific/Hawaii,* San Francisco Office—Philip Burton Federal Building & U.S. Courthouse, 450 Golden Gate Avenue, PO Box 36003, San Francisco, California 94102–3448. The Pacific/Hawaii Office oversees jurisdiction for HUD Offices located in California, Nevada, Arizona, and Hawaii.

*Northwest/Alaska,* Seattle Office—Suite 200, Seattle Federal Office Building, 909 First Avenue, Seattle, Washington 98104–1000. The Northwest/Alaska Office oversees jurisdiction for HUD Offices located in Alaska, Washington, Oregon, and Idaho.

Dated: January 9, 2001.

**Andrew Cuomo,**

*Secretary.*

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