

to all chlorine species as determined by Method 4500-ClO₂ E in the "Standard Methods for the Examination of Water and Wastewater," 18th ed., 1992, or an equivalent method. Method 4500-ClO₂ E is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are available from the Division of Petition Control, Center for Food Safety and Applied Nutrition (HFS-215), Food And Drug Administration, 200 C St., SW., Washington, DC 20204-0001 and The American Public Health Association, 1015 Fifteenth St., NW., Washington, DC 20005, or may be examined at the Office of the Federal Register, 800 North Capitol St., NW., suite 700, Washington, DC.

(b) The additive may be used as an antimicrobial agent in water used in poultry processing in an amount not to exceed 3 parts per million (ppm) residual chlorine dioxide as determined by Method 4500-ClO₂ E referenced above or an equivalent method.

Dated: February 23, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95-5275 Filed 3-2-95; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 15

[Docket R-95-1682; FR-3282-F-01]

RIN 2501-AB47

Freedom of Information Act Procedures

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This rule amends 24 CFR part 15, which implements the Freedom of Information Act and sets forth the procedures to be followed by the Department in responding to requests from the public for documents. The rule fashions certain in-house administrative and procedural changes in the processing of requests for documents and appeals from denials of requests for documents, and is necessary to reflect current organizational responsibilities of the various offices within the Department. The rule also implements the Department's FOIA Handbook procedures for notifying business submitters and affording them an opportunity to object to disclosure of their business information.

EFFECTIVE DATE: April 3, 1995.

FOR FURTHER INFORMATION CONTACT: Yvette Magruder, Assistant Director, Freedom of Information Unit, Room 10139, Department of Housing and Urban Development, 451 Seventh Street SW., Washington DC 20410; telephone (202) 708-3054, or 1-800-877-8339 (TDD). (Only the "800" TDD number is toll-free.)

SUPPLEMENTARY INFORMATION:

Justification for Final Rulemaking

In general, the Department publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking in 24 CFR part 10. However, part 10 does provide for an exception for rules governing the Department's organization or its own internal practices or procedures. Because the provisions contained in this rule relate to the manner in which the Department will administer its responsibilities under the Freedom of Information Act and related technical amendments, notice-and-comment rulemaking would not benefit the public and is not required.

Background

The Department's regulations implementing the Freedom of Information Act (5 U.S.C. 552) (FOIA) were published at 40 FR 48123 (October 14, 1975), and were amended at 52 FR 12160 (April 15, 1987) and 53 FR 37549 (September 27, 1988). This rule is being issued to reflect organizational changes relating to the manner in which the Department administers the disclosure of public documents.

Under Exemption 4 of the FOIA (5 U.S.C. 552(b)(4)) Federal agencies have a responsibility to protect sensitive business information from disclosure. Under Executive Order 12600 (3 CFR, 1987 Comp., p. 235), in meeting this responsibility agencies must notify business submitters that their information has been requested under the FOIA and must afford them an opportunity to object to disclosure of the requested information. By this rule, a new § 15.54, updating the Department's current business submitter notification procedures in HUD Handbook 1327.1 REV-1, Freedom of Information Act, is being added to title 24 of the Code of Federal Regulations (CFR).

In addition, the rule updates language in § 15.21 on the protections available for law enforcement records. The new language duplicates statutory language in the Freedom of Information Reform Act of 1986 (Pub. L. 99-570, subtitle N, approved October 27, 1986; 100 Stat.

3207-48), which modified the terms of the exemption as provided in the FOIA.

Section-by-Section Analysis

Section 15.1(f) currently defines "information center" as any place, reading room, desk, or other area or facility, established and maintained by the Department where the public may request and obtain information and records concerning the Department's operations and business. This rule clarifies the means by which the public may obtain access to those resources that are maintained in a combination of locations within the Department. The rule corrects any perception that all records are maintained in a single location within the Department.

Section 15.13(b) currently provides that the Department will request records that have been stored in the National Archives or other record centers of the General Services Administration. This rule deletes reference to the General Services Administration, because the Federal Record Centers are now administered by the National Archives and Records Administration. The rule establishes that records that have been accessioned by the National Archives and Records Administration may be requested directly from the National Archives and Records Administration.

Section 15.14 addresses the payment of fees for search time and the copying of documents. Those fees currently established in § 15.14(a) are inadequate to defray the Government's own reasonable direct costs in processing requests and copying documents. Accordingly, this rule increases those fees. In addition, § 15.14(c) currently does not include a separate schedule of fees for computer search time. This rule provides for charges to be assessed on the basis of the direct cost of running the computer, plus the programming cost attributable to the search. Section 15.14(e) places restrictions on the assessment of fees against noncommercial requesters. The rule simplifies those restrictions by eliminating confusing language. Section 15.14(f) currently provides that fees may be paid in cash, by check, or by money order. This rule removes approval of cash payments, except when a cash payment is made in person, and identifies to whom the fees should be directed.

The changes to § 15.14 will help defray the direct reasonable cost to the Government of compliance with the FOIA and will simplify fee projections for certain computer searches.

Section 15.21 currently reflects the statutory exemptions to the Freedom of Information Act, with the exception of

Exemption 7, which was substantially amended in 1986, but was not previously incorporated into the Department's regulations. This rule incorporates statutory language with regard to Exemption 7, setting forth the circumstances under which the exemption may provide authority for withholding documents from the public.

Section 15.31 currently establishes that the Department maintains a Central Information Center at its Headquarters location. This rule deletes the designation "Central"; cross-references § 15.1(f), which, as amended, describes "Information Center" as a combination of places, rather than one place within the Headquarters location; and updates the addresses of referenced offices.

Section 15.32 currently authorizes the Director of the Office of Public Affairs to designate the FOIA information officer in Headquarters, and requires the Director's concurrence in the selection by the Regional Administrator and by Directors of Field Offices of information officers in the Regional or Field Offices. This rule substitutes the Director, Office of the Executive Secretariat, for Director, Office of Public Affairs, and eliminates the requirement for the Director's concurrence in the Secretary's Representatives' designees, or designees of the State or Area Coordinators.

Section 15.33 currently provides, in paragraph (a)(6), that the Central Information Center shall contain or have ready access to an index of all Departmental regulations, opinions and adjudicated orders, staff and program manuals, and precedential interpretations. This rule deletes the reference to a "Central" information center, to provide consistency with §§ 15.1(f) and 15.31, as amended; provides that the enumerated records are available in a compilation of indices rather than in a single index; and eliminates other obsolete or unnecessary references. Thus, the rule corrects any public perception that the Department maintains a single index containing all records required by the FOIA to be made available to the public, and simplifies the regulatory language.

Section 15.41 clarifies the parameters for the Department's exercise of its discretion to require payment in advance.

Section 15.42 currently sets forth time limits applicable to requests for documents and appeals from adverse determinations, and provides for the General Counsel to make appeal determinations and approve time extensions, when appropriate. This rule adds authorization for Field Assistant General Counsel to make appeal determinations with respect to denials

issued by Field Offices within their geographical jurisdiction and to grant extensions of time, under certain circumstances, for the Department's response.

Section 15.51 currently authorizes the head of each organizational unit within the Department to release records within his or her area of responsibility. This rule provides that only the Office of the Executive Secretariat (in Headquarters) and designated FOIA liaisons (in Field Offices) are authorized to release records to the public. The amendment consolidates the FOIA process under the supervision of a designated officer, which assures more consistent and prompt responses to FOIA requests.

Section 15.52 concerns the authority to deny requests for records. To be consistent with the statutory language, this rule substitutes the word "appeal" for the word "review" wherever it appears in this section. The rule permits program counsel in Headquarters to concur in the denial of a request for a record and authorizes Field Assistant General Counsel to make appeal determinations with respect to denials issued by Field Offices within their geographical jurisdictions. The rule also requires the Department to list the documents withheld when they number fewer than 21. In addition, the rule eliminates language that terminated the authority of an officer or the officer's designee to release records after the officer or designee has denied the release of those records; therefore, reconsideration by the issuing official of a denial is permitted.

Section 15.54 provides procedures for notifying a submitter when a FOIA request has been made for business information provided by the submitter. The rule provides for designation of business information by the submitter at the time of submission or at a reasonable time thereafter (see § 15.54(h) (4) and (5)). The rule allows business submitters an opportunity to object to disclosure of their information and provides for notice to business submitters about the Department's decision to disclose the information under the FOIA.

Section 15.61 currently provides for administrative review by the General Counsel of a denial of a request for a record, when requested in writing and addressed to the Assistant General Counsel for Training and Administrative Law at HUD Headquarters. To be consistent with the statutory language and § 15.52, as amended, this rule substitutes the word "appeal" for the word "review" wherever it appears in this section. The

rule also reiterates the authority, provided elsewhere in the rule, of the Field Assistant General Counsel to make appeal determinations with respect to Field Office denials of requests for records, and changes the official to whom appeals from decisions by Headquarters and by offices containing a Field Assistant General Counsel should be addressed.

Other Matters

Executive Order 12866

This rule has been reviewed by the Office of Management and Budget under Executive Order 12866. Any changes made in the rule as a result of this review are identified in the docket file of the rule maintained by the Department and available for review at the above address.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule does not have a significant economic impact on a substantial number of small entities. This final rule merely implements certain in-house procedural changes in the processing of FOIA requests, and conforms regulatory language relating to FOIA Exemption 7 to current statutory language.

Environmental Review

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.20(k) of the HUD regulations, the policies and procedures contained in this rule relate only to internal administrative procedures and, therefore, are categorically excluded from the requirements of the National Environmental Policy Act.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this rule will not have substantial direct effects on states or their political subdivisions, or the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government. As a result, the rule is not subject to review under the Order. This final rule implements certain housekeeping provisions relating to the Department's regulations on the release of requested documents.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive

Order 12606, *The Family*, has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. No significant change in existing HUD policies or programs will result from promulgation of this rule, as those policies and programs relate to family concerns. The final rule updates administrative regulations relating to the processing of requests for documents maintained by the Department.

Regulatory Agenda

This rule was listed as Item No. 1731 in the Department's Semiannual Agenda of Regulations published on November 14, 1994 (59 FR 57632, 57642), in accordance with Executive Order 12866 and the Regulatory Flexibility Act.

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, part 15 of Title 24 of the Code of Federal Regulations is amended as follows.

PART 15—TESTIMONY, PRODUCTION AND DISCLOSURE OF MATERIAL OR INFORMATION BY HUD EMPLOYEES

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

Authority: 5 U.S.C. 552; Freedom of Information Reform Act of 1986 (Pub. L. 99-570); 42 U.S.C. 3535(d).

2. In § 15.1, the paragraph designations (a) through (i) are removed, and the definition for "Information center" is revised to read as follows:

§ 15.1 Definitions.

* * * * *

Information center means library, reading room, desk, or other facility, or any combination of places established and maintained by the Department, where the public may request and obtain information and records concerning the Department's operations and business.

* * * * *

3. In § 15.13, paragraph (b) is revised to read as follows:

§ 15.13 Records produced upon request when reasonably described.

* * * * *

(b) When a request is made that reasonably describes a record of the Department that has been stored in a record center of the National Archives

and Record Administration, this record will be requested from the Records Center by the Department and made available to the requester if the record would otherwise be available under this part. Records accessioned by the National Archives will not be made available by the Department, but may be requested directly from the National Archives.

* * * * *

4. In § 15.14, paragraphs (a), (b), (c), (e), and (f) are revised to read as follows:

§ 15.14 Fees.

(a) *Copies of records.* HUD will charge \$0.15 per page for photocopies of documents. For copies prepared by computer, HUD will charge the actual cost of the tape or disk plus \$25.00 per minute for central processing unit (CPU) time, so as to recoup reasonable direct costs of duplicating. For other methods of reproduction or duplication of documents, HUD will charge the actual direct costs of producing the documents.

(b) *Manual searches for records.* HUD will charge \$16.35 per hour per person for searches/reviews performed by clerical staff, and \$37.00 per hour per person for searches/reviews performed by professional staff. Charges for search/review time will be billed in 1/2 hour segments.

(c) *Computer searches for records.* HUD will charge \$35.00 per hour for computer programming relating to a search, plus \$25.00 per minute for central processing unit (CPU) time.

* * * * *

(e) *Restrictions on assessing fees.* HUD will provide the first 100 pages of duplication and the first two hours of search time, manual or computer, free of charge to noncommercial use requesters. There is no charge to noncommercial use requesters for time needed for review, as defined in paragraph (g)(4) of this section. Review time is chargeable only to commercial use requesters. HUD will only assess fees for amounts in excess of \$25.00.

(f) *Payment of fees.* Payment of fees under this section and under § 15.16(a) shall be made by check or money order, payable to the Treasurer of the United States. Cash payments may be made in person at Headquarters or the Field Offices. The fees shall be sent to the Office of Executive Secretariat at Headquarters or to the appropriate Field Office.

* * * * *

5. In § 15.21, paragraph (a)(7) is revised to read as follows:

§ 15.21 Exemptions authorized by 5 U.S.C. 552.

* * * * *

(a) * * *

(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.

* * * * *

6. In section 15.31, paragraphs (a) and (b)(1) are revised and paragraph (b)(2) is removed and reserved, to read as follows:

§ 15.31 Information centers.

(a) The Department maintains an information center as described in § 15.1(f) at Headquarters, 451 Seventh Street SW., Washington, DC 20410.

(b) * * *

(1) In each of its Secretary Representatives' Offices, as follows:

New England, Boston Office—Room 375, Thomas P. O'Neill, Jr. Federal Building, 10 Causeway Street, Boston, Massachusetts 02222-1092.

New York/New Jersey, New York Office—26 Federal Plaza, New York, New York 10278-0068.

Mid-Atlantic, Philadelphia Office—Liberty Square Building, 105 South 7th Street, Philadelphia, Pennsylvania 19106-3392.

Southeast/Caribbean, Atlanta Office—Richard B. Russell Federal Building, 75 Spring Street, S.W., Atlanta, Georgia 30303-3388.

Midwest, Chicago Office—Ralph Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, Illinois 60604-3507.

Southwest, Fort Worth Office—1600 Throckmorton, P.O. Box 2905, Fort Worth, Texas 76113-2905.

Great Plains, Kansas City Office—Room 200, Gateway Tower II, 400 State Avenue, Kansas City, Kansas 66101-2406.

Rocky Mountain, Denver Office—633 17th Street, Denver, Colorado 80202-3607. Pacific/Hawaii, San Francisco Office—Philip Burton Federal Building & U.S. Courthouse, 450 Golden Gate Avenue, P.O. Box 36003, San Francisco, California 94102-3448.

Northwest/Alaska, Seattle Office—Suite 200, Seattle Federal Office Building, 909 First Avenue, Seattle, Washington 98104-1000.

(2) [Reserved]

* * * * *

7. Section 15.32 is revised to read as follows:

§ 15.32 Information officer and FOIA liaisons.

There shall be an information officer in Headquarters and a FOIA liaison in each of the information centers described in § 15.31(b), who shall be responsible for making information and records available to the public in accordance with this part. The information officer in Headquarters shall be designated by the Director, Office of the Executive Secretariat. The FOIA liaisons in each Field Office shall be designated by the Secretary's Representative, State Coordinator, or Area Coordinator.

8. In § 15.33, paragraphs (a) introductory text, (a)(6), (b), and (c) are revised to read as follows:

§ 15.33 Material in department information centers.

(a) The information center at Headquarters shall contain or have access to the following:

* * * * *

(6) Current indices of the foregoing materials.

(b) The information center in each Regional Office shall contain or have access to such of the above records that pertain to the activities of that office.

(c) Facilities shall be available in each information center for the copying of available records.

9. In § 15.41, paragraph (c) is revised to read as follows:

§ 15.41 Requests for records.

* * * * *

(c) The request shall be accompanied by an agreement to pay a fee to be determined in accordance with § 15.14. Under the circumstances enumerated in § 15.18, the Department may refuse to furnish records before receipt of the appropriate fee. A requester may specify a limit for fees, above which the requester is not willing to pay without

advance consultation with the Department.

* * * * *

10. Section 15.42 is revised to read as follows:

§ 15.42 Time limitations.

(a) Upon receipt of a request for records, the appropriate office will determine within ten working days whether to comply with such requests. The office will either agree to provide the requested documents, or will notify the requester, in writing, of an adverse determination, the reasons therefor, and the right to appeal the denial to:

(1) General Counsel, with respect to a denial issued by the Office of the Executive Secretariat or by the offices in which there is a Field Assistant General Counsel; or

(2) Field Assistant General Counsel, with respect to a denial issued by the Field Offices.

(b) When a request for records is misdirected by the requester, the office receiving the request shall:

(1) Promptly refer it to the appropriate office; and

(2) Advise the requester that the time of receipt by the appropriate office will be the time of receipt for processing purposes.

(c) A determination by the General Counsel or the Field Assistant General Counsel with respect to an appeal under § 15.61 shall be made within 20 working days after receipt of the appeal, and shall be communicated to the appellant, in writing.

(d) In unusual circumstances, the General Counsel, or the appropriate Field Assistant General Counsel, may extend the time limits prescribed in paragraphs (a) and (c) of this section, by written notice to the requester setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. An extension shall not exceed ten working days. As used in this paragraph, unusual circumstances means that there is a need:

(1) To search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) To search for, collect, and examine appropriately a voluminous amount of separate and distinct records that are demanded in a single request; or

(3) For consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request, or among two or more organizational units of the Department having a substantial interest in the subject matter of the request.

11. Section 15.51 is revised to read as follows:

§ 15.51 Authority to release records or copies.

The Office of the Executive Secretariat in Headquarters and the FOIA liaisons in each Field Office are authorized to release copies of any Department records upon written request unless disclosure is clearly not appropriate under this part.

12. Section 15.52 is revised to read as follows:

§ 15.52 Authority to deny requests for records.

The officers described in § 15.51, or other official designated by the Secretary's Representative, may deny a request for a record only with the concurrence of the appropriate program counsel in Headquarters or counsel in the Field Offices. Any denial shall:

(a) Be made in writing, describing the documents denied and, if fewer than 21, listing them specifically;

(b) Contain a simple reason for the denial, stating the appropriate exemption used; and

(c) Advise of the right to appeal the adverse determination, in accordance with § 15.61, to the:

(1) General Counsel, with respect to a denial issued by the Office of Executive Secretariat or by offices in which there is a Field Assistant General Counsel; and

(2) Field Assistant General Counsel, with respect to a denial issued by Field Offices.

13. A new section 15.54 is added to read as follows:

§ 15.54 Business information.

(a) *In general.* Business information provided to the Department by a submitter shall not be disclosed pursuant to a FOIA request except in accordance with this section.

(b) *Definitions.* As used in this section:

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

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

(c) *Designation of business information.* A submitter's claim that certain information is confidential or proprietary should be supported by a statement or certification by an officer

or authorized representative of the submitter that the information is, in fact, confidential or proprietary and has not been disclosed to the public. All information considered confidential or proprietary by a submitter should be clearly designated with a prominent stamp, typed legend, or other suitable form of notice, stating "Confidential Treatment Requested by [insert name of submitter]", which should appear on each page or segregable portion of the page. If such marking is impractical, a cover sheet prominently marked "Confidential Treatment Requested by [insert name of submitter]" should be securely attached to the information for which confidential treatment is requested. These designations shall be deemed to have expired 10 years after the date of the submission, unless the submitter requests, and provides reasonable justification for, a longer period of designation.

(d) *Notice to submitter.* To the extent permitted by law, the Department shall provide a submitter with prompt written notice of a FOIA request or administrative appeal encompassing its business information, unless notice is excused under paragraph (h) of this section. Such notice shall afford the submitter an opportunity to object to disclosure pursuant to paragraph (f) of this section. The notice shall either describe the exact nature of the business information requested or provide copies of the records or portions thereof containing the business information. The Department will provide this notice whenever:

(1) The information has been designated in good faith by the submitter as information deemed protected under Exemption 4; or

(2) The Department has reason to believe that the information may be protected from disclosure under Exemption 4.

(e) *Notice to requester.* At the same time the Department notifies the submitter, the Department shall 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.

(f) *Opportunity to object to disclosure.* Through the notice described in paragraph (d) of this section, the Department shall afford a submitter or its designee 10 Federal working days to provide the Department a detailed written statement of the submitter's objection to disclosure of any portion of the information it submitted to the Department. Such statement shall specify all grounds for withholding any of the information and shall

demonstrate why the information is a trade secret or commercial or financial information that is privileged or confidential. Conclusory statements that particular information would be useful to competitors or would impair sales, or similar statements, generally will not be considered sufficient to justify confidential treatment. Information provided by a submitter or its designee pursuant to this paragraph may itself be subject to disclosure under the FOIA.

(g) *Notice of intent to disclose.* The Department shall consider carefully a submitter's objections and specific grounds for nondisclosure, before determining whether to disclose business information. If the Department decides to disclose business information over the objection of a submitter, the Department shall forward to both the submitter and the requester a written notice of intent to disclose. The written notice shall be forwarded 10 Federal working days before the specified disclosure date and shall include:

(1) A statement of the reasons for which the submitter's disclosure objections were not sustained;

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

(3) A specified disclosure date.

(h) *Exceptions to the notice requirement.* The notice requirements of paragraphs (d) and (g) of this section shall not apply if:

(1) The Department determines that the information should not be disclosed;

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

(3) Disclosure of the information is required by law (other than the Act);

(4) Disclosure of the information is required by a departmental regulation that:

(i) Was adopted pursuant to notice and public comment;

(ii) Specifies narrow classes of records submitted to the Department that are to be released under the FOIA; and

(iii) Provides for notice in exceptional circumstances when the submitter provides, at the time the information is submitted or a reasonable time thereafter, written justification that disclosure of the information could reasonably be expected to cause substantial competitive harm;

(5) The information requested was not designated by the submitter as exempt from disclosure in accordance with paragraph (c) of this section at the time of the submission of the information or a reasonable time thereafter, unless the Department has substantial reason to believe that the disclosure of the information would cause competitive harm; or

(6) The designation made by the submitter in accordance with paragraph (c) of this section appears obviously frivolous. In such circumstances, the Department shall forward to the submitter, 10 Federal working days before a specified disclosure date, written notice of any final administrative decision to disclose business information.

(i) *Notice of FOIA lawsuit.* Whenever a requester brings suit seeking to compel disclosure of business information, the Department shall promptly notify the submitter.

(j) *Determination of confidentiality.* HUD will make no determination as to the validity of any request for confidentiality until a request for disclosure of the information is received.

(k) *Current mailing address for the submitter.* Each submitter shall provide to the Department:

(1) A mailing address for receipt of any notices under this section; and

(2) Notice of any change of address.

(l) *Treatment of confidential information by HUD employees.* (1) HUD officers and employees shall not, directly or indirectly, use or allow the use of business information obtained through or in connection with Government employment that has not been made available to the general public.

(2) Except as otherwise provided in this section, HUD officers and employees may not disclose business information, except to other HUD officers or employees who are properly entitled to such information for the performance of their official duties.

14. Section 15.61 is revised to read as follows:

§ 15.61 Administrative appeal.

(a) Appeal shall be available only from a written denial of a request issued under § 15.52, and only when the appeal is filed within 30 days of issuance of the denial. An appeal from a denial issued by the Office of Executive Secretariat or by offices in which there is a Field Assistant General Counsel must be mailed to the Assistant General Counsel for Training and Administrative Law, Room 10246, 451 Seventh Street, SW, Washington, DC, 20410. An appeal from a denial issued by a Field Office must be mailed to the appropriate Field Assistant General Counsel. An appeal must include a copy of the original request for records; a copy of the written denial of access to those records, and a statement of the reasons, circumstances, or arguments advanced in support of, or in opposition to, disclosure of the records. The

envelope containing the appeal should be clearly marked as a Freedom of Information Act appeal, so that the Department can comply with the time limitations set forth in § 15.42.

(b) When an appeal is misdirected by the requester, the Office receiving the appeal shall:

(1) Promptly refer it to the:

(i) Assistant General Counsel for Training and Administrative Law, if the denial was issued by the Office of Executive Secretariat or by an office in which there is a Field Assistant General Counsel, or

(ii) Appropriate Field Assistant General Counsel, if the denial was issued by a Field Office; and

(2) Advise the appellant that the time of receipt for processing purposes will be the time the appeal is received by the appropriate office.

(c) The appeal determination shall be in writing; constitute final administrative action by the Department; and, if the denial is upheld in full or in part, include notification of the right to judicial review.

Dated: December 27, 1994.

Henry G. Cisneros,
Secretary.

[FR Doc. 95-5274 Filed 3-2-95; 8:45 am]

BILLING CODE 4210-32-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8585]

RIN 1545-AS00

Allocations Reflecting Built-in Gain or Loss on Property Contributed to a Partnership; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to final regulations [TD 8585], which were published in the Federal Register for Wednesday, December 28, 1994 (59 FR 66724). The final regulations relate to the remedial allocation method with respect to property contributed by a partner to a partnership and to allocations with respect to securities and similar investments owned by a partnership.

EFFECTIVE DATE: December 28, 1994.

FOR FURTHER INFORMATION CONTACT: Deborah Harrington at (202) 622-3050 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections are under section 704 of the Internal Revenue Code.

Need for Correction

As published, the final regulations contain typographical errors that are in need of correction.

Correction of Publication

Accordingly, the publication of the final regulations which is the subject of FR Doc. 94-31435, is corrected as follows:

§ 1.704-3 [Corrected]

1. On page 66729, column 1, § 1.704-3, paragraph (d)(7), paragraph (iii) of *Example 1.*, line 1, in the paragraph heading, the word "Years" is corrected to read "years".

2. On page 66729, column 2, § 1.704-3, paragraph (d)(7), paragraph (iii)(A) of *Example 1.*, line 1, the word "commended" is corrected to read "commented".

3. On page 66729, § 1.704-3, paragraph (d)(7), paragraph (iii)(C) of *Example 1.*, line 3 of the table is corrected as follows:

	L		M	
	Book	Tax	Book	Tax
*	*	*	*	*
Remedial allocations	1,500	<1,500>
*	*	*	*	*

4. On page 66730, columns 1 and 2, § 1.704-3, paragraph (d)(7), paragraph (iii)(A) of *Example 3.* is removed.

5. On page 66732, § 1.704-3, paragraph (e)(3)(ix), paragraph (i) of *Example 1.*, line 5 from the top of column 2, the language "+\$5,000 (net gain at end of Day 2)+" is corrected to read "+\$5,000 (net gain at end of Day 2)+".

6. On page 66732, column 2, § 1.704-3, paragraph (e)(3)(ix), paragraph (iii) of *Example 1.*, 13th line, the language "tax gain from the sale of Stock 2 and the loss" is corrected to read "tax gain from the sale of Stock 2 and the tax loss".

7. On page 66733, § 1.704-3, paragraph (e)(3)(ix), paragraph (iii) of *Example 1.*, the second table on the page, line 1 is corrected as follows:

	Z		
	Book	Tax	Reevaluation account
Opening Balance ...	\$152,500	\$152,500	0
*	*	*	*

8. On page 66733, § 1.704-3, paragraph (e)(3)(ix), the second table in paragraph (iii) of *Example 2.*, the column heading and line 1 are corrected as follows:

	X and Y		
	Book	Tax	Reevaluation account
Opening Balance ...	\$150,000	\$150,000	0
*	*	*	*

Cynthia E. Grigsby,
Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

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DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 0

[AG Order No. 1951-95]

Federal Bureau of Investigation; General Functions

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This rule amends the Department of Justice organization regulations by adding a new function for the Federal Bureau of Investigation (FBI), that of carrying out the responsibilities conferred upon the Attorney General in Title I of the Communications Assistance for Law Enforcement Act. This rule will accurately update the existing list of the FBI's delegated functions.

EFFECTIVE DATE: February 16, 1995.

FOR FURTHER INFORMATION CONTACT: Telecommunications Industry Liaison Unit (TILU), Engineering Section, Information Resources Division, FBI; telephone number 1-800-551-0336; David F. Worthley, telephone: 703-630-6242.

SUPPLEMENTARY INFORMATION: On October 25, 1994, the President signed