(6) If unusual circumstances apply and more than 5000 pages are necessary to respond to the request, HUD may charge search fees or, for requesters that are educational or noncommercial scientific institutions or representatives of the news media requesting records not sought for commercial use, duplication fees, if timely written notice has been made to the requester pursuant to requirements provided in §15.103(c) and HUD has discussed with the requester through written mail, electronic mail, or telephone (or made not less than 3 good-faith attempts to do so) how the requester could effectively limit the scope of the request as stipulated in §15.103(c).

(7)(i) If a court has determined that exceptional circumstances exist, a failure to comply with any time limit as described in §15.103 shall be excused for the length of time provided by the court order.

(ii) For purposes of this section, the term “exceptional circumstances” does not include a delay that results from a predictable workload of requests, unless HUD demonstrates reasonable progress in reducing its backlog of pending requests. However, refusal by the requester to reasonably modify the scope of a request or arrange an alternative time frame for processing a request (or a modified request) after HUD gives them an opportunity to do so shall be considered a factor in determining whether exceptional circumstances exist.

* * * * *

7. Amend §15.107 as follows:

a. Remove paragraph (b);

b. Redesignate the introductory text as new paragraph (b);

c. Redesignate paragraphs (c) through (i) as (b)(1) through (b)(9), respectively, and

d. Revise redesignated paragraph (b)(5):

Revisions and addition to read as follows:

§15.107  Documents generally protected from disclosure.

(a) HUD shall withhold information only if HUD reasonably foresees that disclosure would harm an interest protected by an exemption as provided in paragraph (b) of this section, or disclosure is prohibited by law. HUD will consider whether partial disclosure of information is possible whenever HUD determines that a full disclosure of a requested record is not possible, and will take reasonable steps necessary to segregate and release nonexempt information. Nothing in this section requires disclosure of information that is otherwise prohibited from disclosure by law, or otherwise exempted from disclosure as provided in paragraph (b)(3) of this section.

* * * * *

(b) * * *

(5) Certain interagency or intra-agency communications. Exemption 5 (5 U.S.C. 552(b)(5)) protects interagency or intra-agency communications that are protected by legal privileges, such as the attorney-client privilege, attorney work-product privilege, or communications reflecting the agency’s deliberative process. The deliberative process privilege shall not apply to records created 25 years or more before the date on which the records were requested.

* * * * *

Dated: December 27, 2016.

Nanni A. Coloretti,
Deputy Secretary.

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BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 891

(Docket No. FR 5890–C–03)

RIN 2501–AD75

Narrowing the Digital Divide Through Installation of Broadband Infrastructure in HUD-Funded New Construction and Substantial Rehabilitation of Multifamily Rental Housing; Correction

AGENCY: Office of General Counsel, HUD.

ACTION: Final rule; correction.

SUMMARY: On December 20, 2016, HUD published a final rule requiring the installation of broadband infrastructure at the time of new construction or substantial rehabilitation of multifamily rental housing that is funded or supported by HUD, the point at which such installation is generally easier and less costly than when undertaken as a stand-alone effort. This document corrects incorrect paragraph designations in one section of the regulatory text. The effective date for HUD’s final rule of January 19, 2017 is unchanged.
