(a) Within 24 hours after the effective date of this AD, perform cleaning and a detailed visual inspection to detect damage or discoloration of the wheel hub caps and of the outer side of the inflation valve side hubs on the MLG wheels, in accordance with paragraph 2.A.(1) of the Accomplishment Instructions of Jetstream Service Bulletin ATP–32–48, Revision 1, dated January 28, 1994. Thereafter, prior to the first flight of each day, repeat this cleaning and inspection. The cleaning and inspection must be performed by appropriately certificated maintenance personnel as specified in § 43.3 of the Federal Aviation Regulations (FAR). If any damage or discoloration is found during any inspection required by this paragraph, prior to further flight, replace the existing MLG wheel assembly and bearings with a serviceable wheel assembly and bearings in accordance with the airplane maintenance manual.

(b) Following accomplishment of the initial inspection required by paragraph (a) of this AD, prior to each flight, with the exception of the first flight of each day, perform a pre-flight detailed visual inspection to detect damage or heat discoloration of the wheel hub cap and the outer side of each inflation valve side hub on the MLG wheels, in accordance with paragraph 2.A.(2) of the Accomplishment Instructions in Jetstream Service Bulletin ATP–32–48, Revision 1, dated January 28, 1994. The pre-flight inspections must be performed by appropriately certificated maintenance personnel, as specified in § 43.3 of the FAR. If any damage or discoloration is found during any inspection required by this paragraph, prior to further flight, replace the existing MLG wheel assembly and bearings with a serviceable wheel assembly and bearings in accordance with the airplane maintenance manual.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(d) Special flight permits may be issued in accordance with Federal Aviation Regulations (FAR) 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The cleaning and inspections shall be done in accordance with Jetstream Service Bulletin ATP–32–48, Revision 1, dated January 28, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Jetstream Aircraft, Inc., P.O. Box 16029, Dulles International Airport, Washington, DC 20041–6029. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on March 15, 1994.

Issued in Renton, Washington, on February 18, 1994.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–4275 Filed 2–24–94; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 771 and 774

[Docket No. 931116-3316]

Revisions to the Export Administration Regulations; Elimination of the Certification Requirements for General License GLR

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR), by eliminating the Shipper's Export Declaration (SED) certification requirements for exports and reexports of replacement parts and equipment under General License GLR to Country Groups Q, T, V, W, and Y. These reporting requirements were originally imposed as a tracking system to help determine how well the replacement provisions of General License GLR were working. BXA has determined that placing the symbol GLR on the SED is in itself a certification that the conditions of the general license are understood and that the exporter will comply with the terms of the general license. However, the removal of the certification requirement does not relieve the exporter of any recordkeeping obligations or other export clearance provisions contained in the EAR.

This rule also eliminates the reporting requirement regarding servicing commodities imported from Country Groups Q, W, or Y and eliminates the reporting requirements regarding certain reexports of one-for-one replacements and replacement equipment.

EFFECTIVE DATE: This rule is effective February 28, 1994.

FOR FURTHER INFORMATION CONTACT: Patricia Muldonian, Office of Technology and Policy Analysis, Bureau of Export Administration, U.S. Department of Commerce, Telephone: (202) 482–2440.

SUPPLEMENTARY INFORMATION: Exporters are reminded that listing General License GLR on the Shipper's Export Declaration (SED) and the presentation of such a SED to the U.S. Government under the clearance procedures of part 786 constitutes a declaration that the export is authorized under General License GLR and that the exporter is committed to the terms and conditions of the one-for-one replacement authority of General License GLR, including, but not limited to, the duty to destroy abroad or return the part to be replaced.

Rulemaking Requirements

1. This rule involves a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), approved by the Office of Management and Budget under control numbers 0694–0018 and 0694–0047. This rule will reduce the reporting burden on the public.

2. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

4. The provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a foreign and military affairs function of the United States. Section 13(b) of the Export Administration Act (EAA) does not require that this rule be published in proposed form because this rule does not impose a new control. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Accordingly, it is issued in final form. However, comments from the public are always welcome. Comments should be submitted to Patricia Muldonian, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Parts 771 and 774

Exports, Reporting and recordkeeping requirements.

Accordingly, parts 771 and 774 of the Export Administration Regulations are amended as follows:

1. The authority citations for 15 CFR parts 771 and 774 continue to read as follows:

Authority: Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; sec. 101, Pub. L. 93–153, 87 Stat. 576 (30 U.S.C. 185), as amended; sec. 103, Pub, L. 94–163, 89 Stat. 877 (42 U.S.C. 6212), as amended; secs. 201 and 201(11)(e), Pub. L. 94–258, 90 Stat. 309 (10 U.S.C. 7420 and 7430(e)), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); sec. 208, Pub. L. 95–372, 92 Stat. 668 (43 U.S.C. 1354); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended (extended by Pub. L. 103–10, 107 Stat. 40); sec. 125, Pub. L. 99–64, 99 Stat. 156 (46 U.S.C. 466c); E.O. 11912 of April 13, 1976 (41 FR 15825, April 15, 1976); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); and E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 11, 1992 (57 FR 53979, November 13, 1992); E.O. 12867 of September 30, 1993 (58 FR 51743, October 4, 1993); E.O. 12868 of September 30, 1993 (58 FR 51749, October 4, 1993).

PART 771—[AMENDED]

2. Section 771.17 is amended by removing paragraph (a)(4) (the Note following (a)(4) is unchanged); by redesignating paragraph (a)(5) as paragraph (a)(4); by revising paragraph (e)(3)(ii) and removing the certification following that paragraph; by adding a new paragraph (e)(3)(iii); by amending paragraphs (f)(2)(i) and (f)(2)(ii) to remove the semicolon at the end of each sentence and replacing the semicolons with a period; by revising paragraphs (f)(2)(iii) and (f)(3)(iii) and removing the certification following each paragraph; and by removing paragraph (f)(3)(iv) as follows:

§ 771.17 General license GLR; return or replacement of certain commodities.

* * * * *

(e) * * *

(3) * * *

(ii) The parts to be replaced shall either be destroyed abroad or returned to the party who supplied the replacement parts, or to a foreign firm that is under the effective control of that party prior to, or promptly after, the shipment of the replacement parts.

(iii) Any export made under paragraph (e)(3) of this section shall be cleared in accordance with the provisions of part 786 of this subchapter.

* * * * *

(f) * * *

(2) * * *

(iii) Any export made under paragraph (f)(2) of this section shall be cleared in accordance with the provisions of part 786 of this subchapter.

(3) * * *

(iii) Any export made under paragraph (f)(3) of this section shall be cleared in accordance with the provisions of part 786 of this subchapter. By making such an export the exporter represents that all the requirements of paragraph (e)(3) have been met and undertakes to destroy or return the replaced parts as set forth in paragraph (f)(3)(ii).

PART 774—[AMENDED]

3. Section 774.2 is amended by revising paragraph (a)(4) to read as follows:

§ 774.2 Permissive reexports.[2]

* * * * *

(a) * * *

(4) May be exported directly from the United States to the country of destination under paragraphs (e) or (f) of General License GLR (§ 771.17 of this subchapter). A party reexporting U.S. origin one-for-one replacement parts or replacements for defective or unacceptable U.S. origin equipment shall ensure that the commodities being repaired or replaced were shipped to their present location in accordance with U.S. law and continue to be legally used, and that either before or promptly after reexport of the replacement parts or equipment, the replaced parts or equipment are either destroyed or returned to the United States or to the foreign firm in Country Groups T or V, except Iran and Syria that shipped the replacement parts or equipment.

* * * * *

Dated: February 22, 1994.

Sue E. Eckert,

Assistant Secretary for Export Administration.

[FR Doc. 94–4357 Filed 2–25–94; 8:45 am]

BILLING CODE 3510–DT–P

[2] See § 774.9 for effect on foreign laws.

DEPARTMENT OF THE TREASURY

Office of the Under Secretary for Domestic Finance

17 CFR Part 403

RIN 1505–AA42

Implementing Regulations for the Government Securities Act of 1986

AGENCY: Office of the Under Secretary for Domestic Finance, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury ("Department") is issuing in final form amendments to the regulations issued under the Government Securities Act of 1986, as amended (the "Government Securities Act" or "GSA"). The amendments implement a buy-in requirement for mortgage-backed securities that are in a fail to receive status for more than 60 calendar days; and all government securities that are needed to complete a customer sell order (other than a short sale) if the securities have not been received from the customer within 30 calendar days after the settlement date for all government securities except mortgage-backed securities, or 60 calendar days after the settlement date for mortgage-backed securities. The final rule adopts without substantive change the buy-in requirements for mortgage-backed securities in a fail to receive status that were prescribed in the proposed rules published for comment on April 17, 1991. However, the time frames for buy-ins of customer sell orders have been revised in the final rule in response to comments received on the proposed rules. These requirements apply to all entities that are required to register or provide notice of their status as government securities brokers and dealers.

EFFECTIVE DATE: April 29, 1994.

FOR FURTHER INFORMATION CONTACT: Ken Papaj (Director), or Lee Grandy (Government Securities Specialist), Public Debt, Government Securities Regulations Staff, 999 E Street, NW., room 515, Washington, DC 20239–0001, (202) 219–3632. (TDD for hearing impaired: (202) 219–9274.)

SUPPLEMENTARY INFORMATION:

I. Background

The GSA regulations currently require a government securities broker or dealer to take prompt steps to obtain possession or control of customers' fully paid or excess margin securities that have been in a fail to receive status for more than 30 calendar days through a buy-in procedure or otherwise. However, mortgage-backed securities are not subject to this buy-in requirement since the Department suspended the application of this rule to such securities in the GSA regulations that were issued in July 1987.[1] In addition, the current GSA regulations do not impose a buy-in requirement for customer sell orders where the government securities broker or dealer has not obtained the securities from its customer. A temporary rule imposing such a requirement on registered government securities brokers and dealers was suspended in the July 1987 GSA regulations issued by the Department.[2]

On April 17, 1991, the Department proposed for comment amendments to sections 403.1, 403.4, and 403.5 of the GSA regulations.[3] The proposed amendments prescribed buy-in requirements for: (i) Mortgage-backed securities in a fail to receive status for more than 60 calendar days, and (ii) customer sell orders (other than short sales) in which the securities were not received from the customer within ten business days after the settlement date.

The proposed rule was intended to subject mortgage-backed securities to a 60 calendar day buy-in requirement, rather than the 30 calendar days applicable to other government securities due to the unique nature of the mortgage-backed market, particularly the lengthy settlement cycle. The reader is referred to the preamble to the proposed rule[4] for a more detailed discussion of the Department's reasons for adopting a 60 calendar day time frame for buy-ins of mortgage-backed securities. The proposed rulemaking also included buy-in rules for customer sell orders that would apply to all government securities brokers and dealers, including financial institutions. Specifically, the provisions proposed that if a government securities broker or dealer executes a customer sell order (other than a short sale) and the broker or dealer has not obtained the securities from the customer within ten business days after the settlement date, then the broker or dealer would be required to close out the transaction with the customer by purchasing securities of like kind and quantity. The Department specifically requested comments concerning the appropriateness of the ten-day time frame.

The comment period for the proposed rules closed on June 17, 1991. Only one letter[5] was received in response to the proposed rule changes. The commenter supported the 60-day buy-in time frame for mortgage-backed securities in a fail to receive status but opposed the proposed rule for customer sell orders. However, the commenter suggested modifications to the time frame for buy-ins of customer sell orders if Treasury decided to adopt such a rule.

Treasury did not issue these rules in final form prior to the expiration of its rulemaking authority on October 1, 1991. Treasury's authority under the GSA was permanently reauthorized on December 17, 1993, hence the long delay in finalizing these rules.

II. Section-by-Section Analysis of Proposed Changes

A. Buy-Ins for Fails To Receive

The Department is now adopting without significant change amendments to paragraphs 403.1, 403.4(g) and 403.5(c)(1)(iii) that were proposed in April 1991. These provisions would require all government securities brokers and dealers that are required to register or file notice pursuant to 15C(a)(1) of the Exchange Act to take prompt steps to obtain possession or control of mortgage-backed securities that are in a fail to receive status for more than 60 calendar days through a buy-in procedure or otherwise.[6] The Public Securities Association (PSA), which was the only commenter on the proposed rules, supported the 60 calendar day time frame for buy-ins of mortgage-backed securities, stating that "* * * the proposal is a reasonable approach."[7] This time frame reflects the recommendations made in July 1989 by an industry-wide task force established by the PSA.[8]

As discussed in more detail in the preamble to the proposed rules, the Department is adopting a longer buy-in time frame for fails to receive for mortgage-backed securities than the 30-calendar day time frame in place for other government securities. This longer time period is appropriate given the normally longer settlement cycle for mortgage-backed securities (which is often as long as 30 days),[9] the complexities of these instruments and the scarcity in the market of specified pools. To avoid abnormal settlements,[10] the Department reiterates that any buy-in accomplished pursuant to these rules would be allowed to settle on the next regularly scheduled settlement date for that particular class or pool of mortgage-backed securities.

The Department understands that the PSA will implement buy-in procedures for mortgage-backed securities similar to those in place for other government securities. We believe that reliance on procedures that are already familiar to the broker-dealers should facilitate the implementation of this rule and view efforts to standardize the operational procedures as a positive step.

B. Buy-Ins for Customer Sell Orders

The Department's proposed rules included a requirement to buy-in customer sell orders (other than a short sale) in cases where the government securities broker or dealer had not obtained the securities from the customer within ten business days after the settlement date. For registered government securities brokers and dealers the Department was proposing to add paragraph 403.4(l) which incorporated by reference paragraph (m)

[1] 52 FR 27910, 27920–21 and 27948–50 (July 24, 1987).

[2] 52 FR 27910, 27921–22 and 27948–50 (July 24, 1987).

[3] See 56 FR 15529 (April 17, 1991). The rule changes to these three sections of the GSA regulations would make the buy-in requirements applicable to all classes of government securities brokers and dealers that were required to register or file notice pursuant to section 15C(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5(a)(1)). Section 403.1 would apply to registered brokers and dealers that were required to file notice as government securities brokers and dealers with the Securities and Exchange Commission; section 403.4 would apply to registered government securities brokers and dealers (i.e., those entities that were required to register with the SEC); and section 403.5 would apply to financial institutions that were required to file notice as government securities brokers and dealers with their respective appropriate regulatory agency.

[4] See 56 FR 15529, 15530–31 (April 17, 1991).

[5] Letter from Peter J. Murray, Chairman, Government Securities Operations Committee, Public Securities Association (PSA) and Laura E. LoCosa, Chairperson, Mortgage-Backed Securities Operations Committee, PSA, to Kenneth Papaj, Director, Government Securities Regulations Staff, Bureau of the Public Debt, Department of the Treasury, dated June 17, 1991 (hereinafter "June 17, 1991 PSA Letter").

[6] The term mortgage-backed securities includes only those mortgage-backed securities that are included in the definition of "government securities" as set out in section 3(a)(42) of the Exchange Act (15 U.S.C. 78c(a)(42)).

[7] June 17, 1991 PSA Letter, *supra* note 5, at 2.

[8] Letter from Marianna Maffucci, Vice President and Assistant General Counsel, Public Securities Association, to Kenneth Papaj, Director, Government Securities Regulations Staff, Bureau of the Public Debt, Department of the Treasury, and Michael Macchiaroli, Assistant Director, Division of Market Regulation, Securities and Exchange Commission, dated July 10, 1989.

[9] The PSA has developed a system to standardize the settlement process for mortgage-backed securities. See Public Securities Association, "Uniform Practices for the Clearance and Settlement of Mortgage-Backed Securities and Other Related Securities" at 15–1 (1988). This system has proven successful in alleviating operational workloads during the heaviest settlement periods, which has contributed to a reduction in the high fail rates for mortgage-backed securities.

[10] A settlement date other than the regularly scheduled settlement date can be requested, however, the buyer pays a premium for this abnormal settlement.

of SEC Rule 15c3–3 (17 CFR 240.15c3–3(m)), with one modification pertaining to the definition of a short sale.[11] This rule has been suspended by the SEC with respect to exempted securities since 1973, including government securities.[12] A companion buy-in rule for customer sell orders that would apply to financial institutions that are required to file notice as government securities brokers and dealers was also proposed in April 1991 by adding new paragraph 403.5(g) to the GSA regulations.

In its comment letter, the PSA stated that the ten-day buy-in rule for customer sell orders should not be adopted because it has minimal customer protection benefits. The PSA noted that improvements in the settlement processes and the fact that most Treasury, agency and government mortgage-backed securities are now in book-entry form have resulted in increased deliveries and fewer overall fails. For those few fails that may still occur, the PSA stated that "[b]roker-dealers have business incentives to clean up fails to limit their market exposure." [13] For mortgage-backed securities, the ten-day buy-in time frame would be problematic since it would require delivery of securities outside of the regularly scheduled settlement cycles. The PSA suggested that, if Treasury believes a buy-in rule for customer sell orders must be adopted, the time frame should be consistent with the applicable buy-in time frames for fails to receive.

The Department continues to believe that buy-in rules for customer sell orders are needed to strengthen customer protection because a customer's failure to deliver a security to an executing broker or dealer could result in that broker's or dealer's failure to deliver to another counterparty. Further, these rules will prevent customers from taking advantage of market fluctuations by refusing to deliver a security to a broker or dealer when the price rises after a sell order has been executed.

In response to the comments made by the PSA, the Department is revising the buy-in time frame for customer sell orders in new paragraphs 403.4(l) and paragraph 403.5(g), applicable to registered government securities brokers-dealers and financial institution government securities broker-dealers, respectively, from ten business days to 30 calendar days for all government securities, except mortgage-backed securities, and to 60 calendar days for all government mortgage-backed securities.[14] These time frames are consistent with the buy-in requirements for fails to receive addressed above. The Department also modified the customer sell order rules to permit the use of alternatives other than purchasing securities (e.g., securities may be borrowed, substituted or bought back) in closing out orders. Again, this is consistent with the buy-in rules for fails to receive.

The buy-in rules for customer sell orders continue to provide an exemption for short sales, which are the primary cause for non-deliveries. This should significantly reduce the number of fails subject to these requirements. Similar to buy-ins of mortgage-backed securities that are in a fail to receive status, broker-dealers will be allowed to effect buy-ins for customer sell orders of mortgage-backed securities at the next regularly scheduled settlement cycle.[15]

Finally, the Department is also adopting without change redesignated paragraph 403.5(h), which will now grant the appropriate regulatory agencies for financial institutions the authority to extend the 30- and 60-calendar day time frame for buy-ins of customer sell orders if a financial institution broker-dealer requests an extension. No comments were received on this provision.

C. Effective Dates

The final rules become effective April 29, 1994. This will provide sufficient time for all government securities brokers and dealers to become acquainted with the new requirements and to implement operating procedures. Additionally, the lead time will enable the PSA to finalize and distribute buy-in procedures it is developing for the industry.

In its comment letter, the PSA requested that the Treasury's buy-in rules be enacted contemporaneously with the Commission's amendments to Rule 15c3–3(d)(2) and (m). Since Treasury's rules apply to all government securities brokers and dealers, and given the Department's understanding that the buy-in rules to be proposed by the Commission will conform to those adopted herein, the Department believes that there is no compelling reason to defer implementation until the Commission acts.

III. Special Analysis

The Department has determined that this action does not constitute a "significant regulatory action" for the purposes of Executive Order 12866 (58 FR 51735, October 4, 1993). Accordingly, it was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs, Office of Management and Budget.

In the preamble to the proposed rules, the Department certified that these amendments would not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis was not prepared. In reviewing the final rules being adopted herein and after considering the comments received on the proposed rules, the Department has concluded that there is no reason to alter the previous certification that these rules will not have a significant economic impact on a substantial number of small entities.

Since these final rules contain no new collections of information, the requirements of the Paperwork Reduction Act (44 U.S.C. 3504(h)) are inapplicable.

List of Subjects in 17 CFR Part 403

Banks, Banking, Brokers, Government securities.

For the reasons set out in the Preamble, 17 CFR part 403 is amended to read as follows:

PART 403—PROTECTION OF CUSTOMER SECURITIES AND BALANCES

1. The authority citation for part 403 is revised to read as follows:

Authority: Sec. 101, Public Law 99–571, 100 Stat. 3209; sec. 4(b), Public Law 101–432, 104 Stat. 963; sec. 102, sec. 106, Public Law 103–202, 107 Stat. 2344 (15 U.S.C. 78o–5(b)(1)(A), (b)(4)).

2. Section 403.1 is revised to read as follows:

§ 403.1. Application of part to registered brokers and dealers.

With respect to their activities in government securities, compliance by

[11] The proposed rule also included an amendment to section 403.1 which would make paragraph 403.4(l) apply to registered brokers and dealers that were required to file notice as government securities brokers and dealers with the SEC.

[12] Securities Exchange Act Release No. 10093 (April 10, 1973), 38 FR 12103 (May 9, 1973).

[13] June 17, 1991 PSA Letter, *supra* note 5, at 3.

[14] The Department is also adopting without change, the amendments to section 403.1, which requires registered broker-dealers to comply with paragraph 403.4(l).

[15] The SEC's buy-in requirement for customer sell orders has been suspended with respect to exempted securities. *See* Securities Exchange Act Release No. 10093 (April 10, 1973), 38 FR 12103 (May 9, 1973). It is the Department's understanding that SEC staff intends to recommend to the Commission a proposal to lift the suspension of paragraph (m) of Rule 15c3–3 with respect to exempted securities and amend the provision in a manner that would conform with Treasury's final rule in paragraph 403.4(l) as it relates to government and mortgage-backed securities.

registered brokers or dealers with § 240.8c–1 of this title (SEC Rule 8c–1), as modified by §§ 403.2 (a), (b) and (c), with § 240.15c2–1 of this title (SEC Rule 15c2–1), with § 240.15c3–2 of this title (SEC Rule 15c3–2), as modified by § 403.3, and with § 240.15c3–3 of this title (SEC Rule 15c3–3), as modified by §§ 403.4 (a)–(d), (e)(2)–(3), (f)–(i), and (l), constitutes compliance with this part.

3. Section 403.4 is amended by revising paragraph (g) and by adding new paragraph (l) after paragraph (k) to read as follows:

§ 403.4. Customer protection—reserves and custody of securities.

* * * * *

(g) For the purposes of this section, § 240.15c3–3(d)(2) of this title ismodified to read as follows:

"(2) Securities included on its books or records as failed to receive more than 30 calendar days, or in the case of mortgage-backed securities, more than 60 calendar days, then the government securities broker or government securities dealer shall, not later than the business day following the day on which such determination is made, take prompt steps to obtain possession or control of securities so failed to receive through a buy-in procedure or otherwise; or"

* * * * *

(l) For purposes of this section, the suspension of § 240.15c3–3(m) of this title (38 FR 12103, May 9, 1973) is no longer effective and the paragraph is modified to read as follows: "(m) If a government securities broker or government securities dealer executes a sell order of a customer (other than an order to execute a sale of securities which the seller does not own, which for the purposes of this paragraph shall mean that the customer placing the sell order has identified the sale as a short sale to the government securities broker or dealer) and if for any reason whatever the government securities broker or government securities dealer has not obtained possession of the government securities, other than mortgage-backed securities, from the customer within 30 calendar days, or in the case of mortgage-backed securities within 60 calendar days, after the settlement date, the government securities broker or government securities dealer shall immediately thereafter close the transaction with the customer by purchasing, or otherwise obtaining, securities of like kind and quantity. For purposes of this paragraph (m), the term "customer" shall not include a broker or dealer who maintains a special omnibus account with another broker or dealer in compliance with section 4(b) of Regulation T (12 CFR 220.4(b)).

* * * * *

4. Section 403.5 is amended by revising paragraph (c)(1)(iii); by redesignating paragraph (g) as paragraph (h) and revising newly redesignated paragraph (h); and by adding new paragraph (g) to read as follows:

§ 403.5. Custody of securities held by financial institutions that are government securities brokers or dealers.

* * * * *

(c)(1) * * *

(iii) Take prompt steps to obtain possession or control of securities failed to receive for more than 30 calendar days, or in the case of mortgage-backed securities, for more than 60 calendar days; or

* * * * *

(g) If a financial institution executes a sell order of a customer (other than an order to execute a sale of securities which the seller does not own, which for the purposes of this paragraph shall mean that the customer placing the sell order has identified the sale as a short sale to the financial institution) and if for any reason whatever the financial institution has not obtained possession of the government securities, except mortgage-backed securities, from the customer within 30 calendar days, or in the case of mortgage-backed securities within 60 calendar days, after the settlement date, the financial institution shall immediately thereafter close the transaction with the customer by purchasing, or otherwise obtaining, securities of like kind and quantity.

(h) The appropriate regulatory agency of a financial institution that is a government securities broker or dealer may extend the period specified in paragraphs (c)(1)(iii) and (g) of this section on application of the financial institution for one or more limited periods commensurate with the circumstances, provided the appropriate regulatory agency is satisfied that the financial institution is acting in good faith in making the application and that exceptional circumstances warrant such action. Each appropriate regulatory agency should make and preserve for a period of not less than three years a record of each extension granted pursuant to this paragraph, which contains a summary of the justification for the granting of the extension.

Dated: February 14, 1994.

Frank N. Newman,

Under Secretary for Domestic Finance.

[FR Doc. 94–4402 Filed 2–25–94; 8:45 am]

BILLING CODE 4810–39–W

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 16

[Docket No. R–94–1669; FR–3436–F–02]

RIN 2501–AB60

Exemption of System of Records Under Privacy Act of 1974

AGENCY: Office of the Secretary, HUD

ACTION: Final rule.

SUMMARY: This final rule exempts a new system of records entitled "Tenant Eligibility Verification Files" from compliance with the applicable provisions of the Privacy Act. This additional exemption is necessary because on July 12, 1993, the Department created a new system of records entitled "HUD/PIH–1. Tenant Eligibility Verification Files" to add to the Privacy Act system of records.

EFFECTIVE DATE: March 30, 1994.

FOR FURTHER INFORMATION CONTACT: David L. Decker, Director, Computer Matching Activities Division, Office of the Public and Indian Housing Comptroller, Room 4122, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–0099. Hearing or speech-impaired individuals may call HUD's TDD number (202) 708–0850. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

I. Background

Except for the Office of Inspector General, the Department's implementation of the Privacy Act (5 U.S.C. 552a) is set forth in 24 CFR part 16. (The implementation of the Privacy Act for the Office of Inspector General appears in 24 CFR part 2003). The implementation of the Privacy Act includes the publication of a system of records which are exempt from certain requirements of the Privacy Act, as determined by the Secretary under the specific exemption authority of the Act, 5 U.S.C. 552a(k). The specific exemption provision of the Privacy Act authorizes exemption for systems of records from many of the notice and access requirements of the Privacy Act, but does not affect the applicability of the remaining Privacy Act requirements. The Department's specific exemptions appear at 24 CFR 16.15.

The establishment of a new system of records on July 12, 1993 (58 FR 37600), entitled "HUD/PIH–1. Tenant Eligibility Verification Files," and this rule are necessary as a result of the recent transfer of computer matching/tenant eligibility verification functions from the Office of Inspector General to the Assistant Secretary for Public and Indian Housing. (The transfer affects only housing assistance programs administered by the Assistant Secretary for Public and Indian Housing.)

The tenant records and other records referenced in the new "Tenant Eligibility Verification Files" system of records notice were previously included in the "Investigative Files of the Office of the Inspector General" (HUD/OIG–1, see 57 FR 25070). The Assistant Secretary for Public and Indian Housing will be adding records to the final new system based on computer matching results and verification of those results with tenant case files and records supplied by Federal agencies and private employers.

This final rule also makes changes to § 16.15 to clarify the scope of the exemptions applicable to the Assistant Secretary for Public and Indian Housing's system of records entitled "Tenant Eligibility Verification Files," and provides reasons for the exemptions from particular subsections of the Privacy Act that are more detailed than those currently found at 24 CFR 16.15.

II. Discussion of Public Comments From Proposed Rule

On July 12, 1993 (58 FR 37598), the Department published a proposed rule which would exempt the new system of records entitled "Tenant Eligibility Verification Files" from compliance with applicable provisions of the Privacy Act. The Department received one public comment from a public housing agency in response to this proposed rule. The commenter stressed the need to protect a tenant's privacy, and urged strenuous penalties to prevent misuse of the new system of records. The Department agrees that it is extremely important to prevent the misuse of confidential material concerning a tenant. However, the Department does not believe any changes to the final rule are necessary because both the Privacy Act and the Computer Matching and Privacy Protection Act of 1988 provide sufficient safeguards to protect against the unlawful disclosure of material concerning a tenant from this Privacy Act system of records.

III. Other Matters

A. Environmental Impact

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 in this document are determined not to have the potential of having a significant impact on the quality of the human environment, and, therefore, are categorically excluded from the requirements of the National Environmental Policy Act of 1969. Accordingly, a Finding of No Significant Impact is not required.

B. Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this rule, 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 only affects the way the Department implements the Privacy Act.

C. 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. Specifically, the requirements of this rule are directed to the Department of Housing and Urban Development, and do not impinge upon the relationship between the Federal Government and State and local governments.

D. Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this final 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.

E. Regulatory Agenda

This final rule was listed as item no. 1444 in the Department's Semiannual Agenda of Regulations published on October 25, 1993 (58 FR 56402, 56410) in accordance with Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 16

Privacy.

Accordingly, 24 CFR part 16 is amended to read as follows:

PART 16—IMPLEMENTATION OF THE PRIVACY ACT OF 1974

1. The authority citation for part 16 is revised to read as follows:

Authority: 5 U.S.C. 552(a); 42 U.S.C. 3535(d).

2. Section 16.15 is amended by adding new paragraphs (c) and (d) as follows:

§ 16.15 Specific exemptions.

* * * * *

(c) The system of records entitled "HUD/PIH–1. Tenant Eligibility Verification Files" consists in part of investigatory material compiled for law enforcement purposes. Relevant records will be used by appropriate Federal, state or local agencies charged with the responsibility for investigating or prosecuting violations of law. Therefore, to the extent that information in the system falls within the coverage of subsection (k)(2) of the Privacy Act, 5 U.S.C. 552a(k)(2), the system is exempt from the requirements of the following subsections of the Privacy Act, for the reasons stated below.

(1) From subsection (c)(3) because release of an accounting of disclosures to an individual who may be the subject of an investigation could reveal the nature and scope of the investigation and could result in the altering or destruction of evidence, improper influencing of witnesses, and other evasive actions that could impede or compromise the investigation.

(2) From subsection (d)(1) because release of the records to an individual who may become or has become the subject of an investigation could interfere with pending or prospective law enforcement proceedings, constitute an unwarranted invasion of the personal privacy of third parties, reveal the identity of confidential sources, or reveal sensitive investigative techniques and procedures.

(3) From subsection (d)(2) because amendment or correction of the records could interfere with pending or prospective law enforcement proceedings, or could impose an impossible administrative and investigative burden by requiring the office that maintains the records to continuously retrograde its verifications of tenant eligibility attempting to resolve questions of accuracy, relevance, timeliness and completeness.

(4) From subsection (e)(1) because it is often impossible to determine

relevance or necessity of information in pre-investigative early stages. The value of such information is a question of judgment and timing; what appears relevant and necessary when collected may ultimately be evaluated and viewed as irrelevant and unnecessary to an investigation. In addition, the Assistant Secretary for Public and Indian Housing, or investigators, may obtain information concerning the violation of laws other than those within the scope of its jurisdiction. In the interest of effective law enforcement, the Assistant Secretary for Public and Indian Housing, or investigators, should retain this information because it may aid in establishing patterns of unlawful activity and provide leads for other law enforcement agencies. Further, in obtaining the evidence, information may be provided which relates to matters incidental to the main purpose of the inquiry or investigation but which may be pertinent to the investigative jurisdiction of another agency. Such information cannot readily be identified.

(d) The system of records entitled "HUD/PIH–1. Tenant Eligibility Verification Files" consists in part of material that may be used for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or Federal contracts, the release of which would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence. Therefore, to the extent that information in this system falls within the coverage of subsection (k)(5) of the Privacy Act, 5 U.S.C. 552a(k)(5), the system is exempt from the requirements of the following subsection of the Privacy Act, for the reasons stated below.

(1) From subsection (d)(1) because release would reveal the identity of a source who furnished information to the Government under an express promise of confidentiality. Revealing the identity of a confidential source could impede future cooperation by sources, and could result in harassment or harm to such sources.

Dated: February 15, 1994.

Henry G. Cisneros,

Secretary.

[FR Doc. 94–4482 Filed 2–25–94; 8:45 am]

BILLING CODE 4210–32–P

24 CFR Parts 792 and 892

[Docket No. R–94–1708; FR–3487–F–01]

RIN 2501–AB65

Implementation of Section 129 of the Housing and Community Development Act of 1992

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule establishes procedures for public housing agencies and Indian housing authorities (HAs) to follow to permit HAs to retain a portion of certain section 8 fraud recoveries from tenants and owners for use in section 8 programs. Section 129 of the Housing and Community Development Act of 1992 expands HA retention of section 8 fraud recoveries to include recoveries obtained through administrative repayment agreements, as well as litigation (including settlement of a lawsuit) or a court-ordered restitution. This rule applies to the section 8 rental certificate, rental voucher, moderate rehabilitation programs, and private owner/HA new construction and substantial rehabilitation projects subject to an Annual Contributions Contract.

EFFECTIVE DATE: March 30, 1994.

FOR FURTHER INFORMATION CONTACT: For the Section 8 Rental Certificate, Rental Voucher and Moderate Rehabilitation Programs: Madeline Hastings, Director, Rental Assistance Division, Office of Assisted Housing, room 4226, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, (202) 708–1842. Hearing or speech-impaired individuals may call HUD's TDD number (202) 708–0850.

For issues concerning computer matching/tenant income verification matters: David L. Decker, Director, Computer Matching Activities Division, room 4122, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, (202) 708–0099. Hearing or speech-impaired individuals may call HUD's TDD number (202) 708–0850.

For Section 8 private owner/HA new construction and substantial rehabilitation projects subject to an ACC between HUD and an HA: James Tahash, Director, Planning and Procedures Division, Office of Insured Multifamily Housing Development, room 6182, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, (202) 708–3944. Hearing or speech-impaired individuals may call HUD's TDD number (202) 708–4594.

(The telephone numbers cited above are not toll free numbers.)

SUPPLEMENTARY INFORMATION:

I. Background:

Some tenants receiving section 8 assistance submit false statements which underreport income to obtain excessive housing assistance. Similarly, some owners also commit fraud in order to receive section 8 rental assistance payments to which they are not entitled. Examples of owner fraud include billing for vacant dwelling units, charging more rent for assisted units than unassisted units in the same building, receiving sidepayments from assisted tenants, and knowingly admitting ineligible tenants into section 8 substantial rehabilitation and new construction projects. Through various methods, such as direct observation, informants, investigative action and computer matches, HAs discover that tenants and owners have committed fraud in order to receive either benefits or payments for which they were not entitled.

In 1981, Congress enacted legislation aimed at stemming this fraud and abuse. Section 326(d)(1) of the Housing and Community Development Amendments of 1981 (Pub. L. 97–35; hereafter referred to as "1981 HCD Act") allowed HAs to retain "out of judgments obtained by them in recovering amounts wrongfully paid as a result of fraud and abuse" a portion of the fraud recoveries to encourage HAs to recover amounts overpaid as a result of such fraud and abuse. On August 20, 1986 (51 FR 29633), the Department published a final rule implementing section 326(d)(1) of the 1981 HCD Amendments. In the final rule, HUD construed the term "judgments" to allow HAs to retain amounts recovered by means of litigation, including a settlement of litigation.

However, most section 8 fraud recoveries result from administrative repayment agreements between the HA and the families, or between the HA and the owner. As such, nearly all tenant and owner fraud recoveries have gone to HUD, and HAs have had little monetary incentive to identify tenant and owner fraud and pursue repayment.

Section 129 of the Housing and Community Development Act of 1992, (Pub. L. 102–550, approved October 28, 1992; hereafter referred to as "1992 HCD Act"), allows HAs to retain a portion of rental assistance fraud recoveries obtained through litigation, court-ordered restitutions, and administrative repayment agreements pursuant to an administrative grievance procedure except in cases where HUD is the principal party initiating or sustaining the recovery action. By allowing HAs to retain a portion of the monies recovered under administrative repayment agreements, the Act provides an additional incentive for HAs to aggressively pursue cases of suspected fraud.

Under the Act and this regulation, an HA can retain the greater of: (1) 50 percent of the amount collected or (2) the actual, reasonable, and necessary expenses related to the collection, including the cost of investigation, legal fees and collection fees. The recoveries may be obtained through litigation (including settlement of a lawsuit), a court-ordered restitution, or an administrative repayment agreement pursuant to an administrative grievance procedure. The rule applies to the Section 8 Rental Certificate, Rental Voucher, Moderate Rehabilitation Programs and private owner/HA new construction and substantial rehabilitation projects subject to an Annual Contributions Contract (ACC) between HUD and an HA.

Finally, in August of 1986, the Department added a final rule implementing section 326(d)(1) of the 1981 HCD Amendments as a new part 892. This final rule transfers the requirements of 892 to a new part 792, and removes part 892. The rule also changes the reference from public housing agency (PHA) to housing agency (HA) to recognize definitional changes resulting from the Indian Housing Act of 1988 (Pub. L. 100–358).

II. Other Matters

A. Environmental Impact

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 HUD administrative procedures and, therefore, are categorically excluded from the requirements of the National Environmental Policy Act.

B. 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. Specifically, the rule increases the amount a housing agency may recover in fraud and abuse cases. As such, the rule will not impinge on the relationship between the Federal and state and local governments, and the rule is not subject to review under the order.

C. 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.

D. Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) has reviewed and approved this rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities, because the number of recoveries by housing agencies is expected to be small and so the number of small public housing agencies affected will be small. In any event, the effect on small entities is expected to be positive rather than negative.

E. Paperwork

The changes made by this final rule to the regulatory text in 24 CFR part 892, which now appears as 24 CFR part 792, will not add any additional information collection burden than that already approved by the Office of Management and Burden under the Paperwork Reduction Act and assigned OMB approval number 2577–0053.

F. Regulatory Agenda

This rule was listed as item no. 1655 in the Department's Semiannual Agenda of Regulations published on October 25, 1993 (58 FR 56402, 56453) in accordance with Executive Order 12991 and the Regulatory Flexibility Act.

G. Justification for Final Rulemaking

In general, the Department publishes rules for public comment before their issuance for effect, in accordance with its own regulations on rulemaking, 24 CFR part 10. However, part 10 provides exceptions from that general rule where the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is "impracticable, unnecessary, or contrary to the public interest" (24 CFR 10.1). The Department finds that good cause exists to publish this rule for effect without first soliciting public comment, in that prior public procedure is unnecessary because the changes being made to part 892, which now appears as part 792, merely implement statutory amendments that do not involve the exercise of any discretion by the Department.

H. The Catalog of Federal Domestic Assistance program number(s) are 14.156, Lower Income Housing Assistance Programs.

List of Subjects in 24 CFR Parts 792 and 892

Fraud, Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, for the reasons set forth in the preamble, title 24 of the Code of Federal Regulations is amended by redesignating part 892 as part 792 and by revising the newly designated part 792 to read as follows:

PART 792—HOUSING AGENCY SECTION 8 FRAUD RECOVERIES

Authority: 42 U.S.C. 1437f note; 42 U.S.C. 3535(d).

Subpart A—General Provisions

§ 792.101 Purpose.

The purpose of this part is to encourage public housing agencies and Indian housing authorities (HAs) to investigate and pursue instances of tenant and owner fraud and abuse in the operation of the section 8 housing assistance payments programs.

§ 792.102 Applicability.

(a) This part applies to an HA acting as a contract administrator under an annual contributions contract with HUD in any section 8 housing assistance payments program. To be eligible to retain section 8 tenant or owner fraud recoveries, the HA must be the principal party initiating or sustaining an action to recover amounts from families.

(b) This part applies only to those instances when a tenant or owner committed fraud, and the fraud recoveries are obtained through litigation brought by the HA (including settlement of the lawsuit), a court-ordered restitution pursuant to a criminal proceeding, or an administrative repayment agreement with the family or owner as a result of an HA administrative grievance procedure pursuant to, or incorporating the requirements of, § 882.216 or 887.405. This part does not apply to cases of owner fraud in HA-owned or controlled units, or where incorrect payments were made or benefits received because of calculation errors instead of willful fraudulent activities.

(c) This part applies to all tenant and owner fraud recoveries resulting from litigation brought by the HA (including settlement of the lawsuit), or a court-ordered restitution pursuant to a criminal proceeding obtained on or after October 8, 1986, and to all tenant and owner fraud recoveries obtained through administrative repayment agreements signed on or after October 28, 1992.

§ 792.103 Definitions.

Fraud and abuse. Fraud and abuse means a single act or pattern of actions:

(1) That constitutes false statement, omission, or concealment of a substantive fact, made with intent to deceive or mislead; and

(2) That results in payment of section 8 program funds in violation of section 8 program requirements.

HA (Housing Agency). HA (Housing Agency) means any State, county, municipality, or other governmental entity or public body, including any Indian Housing Authority, acting as a section 8 contract administrator under an annual contributions contract with HUD.

Judgment. Judgment means a provision for recovery of section 8 program funds obtained through fraud and abuse, by order of a court in litigation or by a settlement of a claim in litigation, whether or not stated in a court order.

Litigation. A lawsuit brought by a HA to recover section 8 program funds obtained as a result of fraud and abuse.

Principal party in initiating or sustaining an action to recover. Principal party in initiating or sustaining an action to recover means the party that incurs more than half the costs incurred in:

(1) Recertifying tenants who fraudulently obtained section 8 rental assistance;

(2) Recomputing the correct amounts owed by tenants; and

(3) Taking needed actions to recoup the excess benefits received, such as initiating litigation.

Costs incurred to detect potential excessive benefits in the routine day-to-day operations of the program are excluded in determining the principal party in initiating or sustaining an action to recover. For example, the cost of income verification during an annual recertification would not be counted in determining the principal party in initiating or sustaining an action to recover.

Repayment agreement. Repayment agreement means a formal document signed by a tenant or owner and provided to an HA in which a tenant or owner acknowledges a debt, in a specific amount, and agrees to repay the amount due at specific time period(s).

Subpart B—Recovery of Section 8 Funds

§ 792.201 Conduct of litigation.

The HA must obtain HUD approval before initiating litigation in which the HA is requesting HUD assistance or participation.

§ 792.202 HA retention of proceeds.

(a) Where the HA is the principal party initiating or sustaining an action to recover amounts from tenants that are due as a result of fraud and abuse, the HA may retain, the greater of:

(1) Fifty percent of the amount it actually collects from a judgment, litigation (including settlement of lawsuit) or an administrative repayment agreement pursuant to, or incorporating the requirements of, § 882.216 or § 887.405; or

(2) Reasonable and necessary costs that the HA incurs related to the collection from a judgment, litigation (including settlement of lawsuit) or an administrative repayment agreement pursuant to, or incorporating the requirements of, § 882.216 or § 887.405. Reasonable and necessary costs include the costs of the investigation, legal fees and collection agency fees.

(b) If HUD incurs costs on behalf of the HA in obtaining the judgment, these costs must be deducted from the amount to be retained by the HA.

§ 792.203 Application of amounts recovered.

(a) The HA may only use the amount of the recovery it is authorized to retain in support of the section 8 program in which the fraud occurred.

(b) The remaining balance of the recovery proceeds (i.e., the portion of recovery the HA is not authorized to retain) must be applied as directed by HUD.

§ 792.204 Recordkeeping and reporting.

To permit HUD to audit amounts retained under this part, an HA must maintain all records required by HUD, including:

(a) Amounts recovered on any judgment or repayment agreement;

(b) The nature of the judgment or repayment agreement; and

(c) The amount of the legal fees and expenses incurred in obtaining the judgment or repayment agreement and recovery.

(Approved by the Office of Management and Budget under Control Number 2577–0053)

Dated: February 17, 1994.

Henry G. Cisneros,

Secretary of Housing and Urban Development.

[FR Doc. 94–4484 Filed 2–25–94; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8491]

RIN 1545–AN15

Regulations Under Section 446 of the Internal Revenue Code of 1986; Application of Section 446 With Respect to Notional Principal Contracts; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to the final regulations (TD 8491), which were published in the **Federal Register** for Thursday, October 14, 1993 (58 FR 53125). The final regulations relate to the timing of income and deductions with respect to notional principal contracts.

EFFECTIVE DATE: October 14, 1993.

FOR FURTHER INFORMATION CONTACT: Alan B. Munro, (202) 622–3950 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections are under sections 446(b) (relating to general rules for methods of accounting) and 1092(d) (relating to definitions and special rules with respect to straddles) of the Internal Revenue Code of 1986.

Need for Correction

As published, TD 8491 contains errors which may prove to be misleading and are in need of clarification.