2. Section 97.2 is amended by removing or adding, in alphabetical order, the information as shown below:

§ 97.2 Administrative instructions prescribing commuted traveltime.

* * * * *

COMMUTED TRAVELTIME ALLOWANCES

[In hours]

Location covered	Served from—	Metropolitan area	
		Within	Outside
Remove:			
Illinois:			
Bloomington	Pana		3
Bloomington	Springfield		3
Bloomington	Tolono		3
Camp Grove	El Paso		3
Camp Grove	Springfield		5
*	*	*	*
Peoria	El Paso		2
Peoria	Springfield		3
Peoria	Tolono		4
Springfield	El Paso		3
Springfield	Nebo		3
Springfield	Pana		2
Springfield	Tolono		3
*	*	*	*
Add:			
Oregon:			
Portland	Sunny Valley		6
*	*	*	*

Done in Washington, D.C., this 9th day of February, 1988.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88-3232 Filed 2-12-88; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 88-CE-06-AD; Amendment 39-5848]

Airworthiness Directives; Piper Models PA-34-200, PA-34-200T, and PA-34-220T Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, request for comments.

SUMMARY: This Amendment adopts a new Airworthiness Directive (AD), applicable to certain Piper Models PA-34-200, PA-34-200T, and PA-34-220T airplanes which supersedes AD 79-34-01 [Amendment 39-3601 as amended by 39-3701) and AD 81-10-03 (Amendment 39-4100). This AD requires inspection, rigging, repairs, and modification of the forward baggage compartment door. The FAA has received several reported incidents in which the baggage door opened inflight resulting in pilot distraction and possible structural damage to the airplane. The inspections, rigging, and repairs of the forward baggage compartment door, plus the installation of the forward baggage compartment door latch spring kit will provide a positive latching of the door.

EFFECTIVE DATES: February 16, 1988. Comments for inclusion in the Rules Docket must be received on or before April 18, 1988.

Compliance: Required within the next 50 hours time-in-service after the effective date of this AD.

ADDRESSES: Piper Service Bulletin (SB) No. 872, dated November 9, 1987, applicable to this AD may be obtained from Piper Aircraft Corporation, 29265 Piper Drive, Vero Beach, Florida 39360, telephone number 305-567-4361. A copy of this information may also be examined at the Rule Docket at the address below. Send comments on the AD in Triplicate to FAA, Central Region, Attention: Rules Docket, No. 88-CE-06-AD, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Charles L. Perry, Engineer, Airframe Branch, ACE-120A, Atlanta Aircraft Certification Office, Suite 210, 1669 Phoenix Parkway, Atlanta, Georgia 30349; Telephone (404) 991-2910.

SUPPLEMENTARY INFORMATION:

Since 1974, there have been 10 reported accidents or incidents on Piper PA-34 series airplanes involving the forward baggage compartment door in addition to 34 other reports regarding forward baggage compartment door conditions. Piper has issued SB No. 447, "Inspection and Modification of the Seneca Forward Baggage Door and Installation of a Door Restraint Kit," dated February 7, 1975. Piper has also issued SB No. 633A, "Forward Baggage Door Inspection and Modification," dated September 20, 1979, which revises the Serial Numbers affected, adds the replacement of the push rod and revises the material required. On October 3, 1980, Piper issued SB 633B to provide for safety wiring of the roll pin. Piper SB 633A and 633B were subsequently the subject of AD 79-23-01 and AD 81-10-03. The above noted SB's were applicable to Models PA-34-200 and PA-34-200T airplanes. An equivalent to these SB's was incorporated during production on Piper Model PA-34-220T airplance.

Subsequently, the NTSB issued safety recommendations concerning the forward baggage compartment door system, including a recommendation for a design modification to improve the locking mechanism of the baggage door (NTSB Recommendation A-87-23).

On November 9, 1987, Piper issued SB No. 872, "Forward Baggage Compartment Door Latch Spring Installation and Door Assembly Inspection." This latest SB requires an inspection for positive latching and locking of the forward baggage compartment door, an inspection of the overall condition and rigging of the door, and announces the availability of a baggage compartment door latch spring kit. The modification will help insure positive latching of this door.

In the accidents and incidents previously noted, the airplanes were controllable although in some instances the door or the contents of the baggage compartment struck the airplance structure. More recently, the FAA was advised of an instance of degradation of the pitch control with the inflight opening of the door. Baggage door detachment or loss of the compartment contents at high cruise or descent speeds can result in loss of control, structural damage or overload.

Since the FAA has determined that the unsafe condition described herein is likely to exist or develop in other airplanes of the same type design, an AD is being issued requiring an inspection of the forward baggage compartment door for positive latching and locking, an inspection of overall forward baggage compartment door condition and rigging, and the installation of a forward baggage compartment door latch spring kit on certain Piper Models PA-34-200, PA-34-200T, and PA-34-220T airplanes. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

Although this action is in the form of a Final Rule which involves requirements affecting immediate flight safety and, thus, was not preceded by notice and public procedure, comments are invited on the rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the address specified above. All communications

received on or before the closing date for comments will be considered by the Director. This rule may be amended in the light of comments received. Comments that provide a factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effectiveness of the AD and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket at the address given above. A report summarizing each FAA public contact concerned with the substance of this AD, will be filed in the Rules Docket.

The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "**ADDRESSES**" at the location identified.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

Piper: Applies to Model PA-34-200 (S/Ns 34-7250001 through 34-7450220), PA-34-200T (S/Ns 34-7570001 through 34-8170092), and PA-34-220T (S/Ns 34-8133001 through 34-8633031, and 3433001 through 3433088) airplanes certificated in any category.

Compliance: Required within the next 50 hours time-in-service from the effective date of this AD unless already accomplished.

To prevent the forward baggage compartment door from opening in flight, accomplish the following:

(a) For Model PA-34-200 (S/N 34-7520001 through 34-7450220) and Model PA-34-200T (S/N 34-7570001 through 34-7970075, 34-7970077 through 34-7970105, 34-7970107 through 34-7970109, 34-7970111, 34-7970113 through 34-7970117, 34-7970120, 34-7970121, 34-7970123 through 34-7970135, 34-7970137, 34-7970141, 34-7970143, 34-7970145, and 34-7970164), unless previously accomplished per AD 79-23-01, modify the forward baggage door in accordance with the instructions in Part III of Piper Service Bulletin No. 633A, dated September 20, 1979.

(b) For Model PA-34-200 (S/N 34-7520001 through 34-7450220) and Model PA-34-200T (S/N 34-7570001 through 34-8070367), unless previously accomplished per AD 81-10-03, modify the forward baggage door in accordance with Part IV of Piper Service Bulletin No. 633B, dated October 3, 1980.

(c) For all affected airplanes, visually inspect, repair as necessary, and modify the forward baggage compartment door and latching mechanism in accordance with Piper Service Bulletin No. 872, dated November 9, 1987.

(d) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(e) An equivalent means of compliance with this AD may be used if approved by the Manager of the Atlanta Aircraft Certification Office, FAA, Central Region, Suite 210, 1669 Phoenix Parkway, Atlanta, Georgia 30349.

All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to Piper Aircraft Corporation, 29265 Piper Drive, Vero Beach, Florida, 39360, or may examine the documents at the FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri, 64106.

This AD supersedes AD 79-23-01 (Amendment 39-3601, 44 FR 62882, November 1, 1979, as amended by 39-3701, 45 FR 12213, February 25, 1980) and AD 81-10-03 (Amendment 39-4100, 46 FR 24932, May 4, 1981).

This amendment becomes effective on February 16, 1988.

Issued in Kansas City, Missouri, on February 1, 1988.

Paul K. Bohr,

Director, Central Region.

[FR Doc. 88-3105 Filed 2-12-88; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 184

[Docket No. 84G-0384]

Cocoa Butter Substitute Primarily From Palm Oil; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the document that amended its regulations on substances that are generally recognized as safe (GRAS) to include an alternate method of manufacture for cocoa butter substitute primarily from palm oil (52 FR 47918; December 17, 1987). A statement concerning an address for written objections was inadvertently included as an "ADDRESS" paragraph to the final rule. This document corrects that error by removing the **"ADDRESS"** paragraph.

DATE: Effective December 17, 1987.

FOR FURTHER INFORMATION CONTACT: T. Rada Proehl, Regulations Editorial Staff (HFC-222), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: In FR Doc. 87-28959, appearing on page 47918 in the **Federal Register** of Thursday, December 17, 1987, on page 47919, in the first column, the **"ADDRESS"** paragraph is removed. Interested persons were given an opportunity to comment on this petition in the **Federal Register** of December 28, 1984 (49 FR 50477).

Dated: February 8, 1988.

George R. White,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 88-3182 Filed 2-12-88; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 203

[Docket No. R-88-1311; FR-2193]

Single Family Mortgage Insurance, Deficiency Judgments

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule authorizes the FHA Commissioner to require mortgagees to obtain a deficiency judgment in connection with the foreclosure of mortgages insured pursuant to firm commitments issued on or after its effective date. With respect to other insured mortgages, the Commissioner may *request* a mortgagee to obtain a deficiency judgment. This rule is promulgated as a part of the Department's overall effort to strengthen its debt collection activities; minimize losses to the FHA insurance funds; and deter and prevent program fraud and abuse.

FOR FURTHER INFORMATION CONTACT: Robert E. Falkenstein, Jr., Director, Single Family Servicing Division, Office of Single Family Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 755–6672. (This is not a toll-free number.).

EFFECTIVE DATE: March 28, 1988.

SUPPLEMENTARY INFORMATION: In the past, the Department had no policy which required or encouraged mortgagees to seek deficiency judgments since it was deemed impracticable under the existing statutory and regulatory structure. Relatively recent statutory enactments and the publication, on January 13, 1987, of a regulation authorizing the payment of insurance claims without the conveyance of title (52 FR 1320), now make it feasible to require or request mortgagees to seek deficiency judgments against defaulting mortgagors in certain cases.

On February 12, 1987, at 52 FR 4507, the Department published a proposed rule providing that, under the recently promulgated claims without conveyance procedure (cited above), mortgagees holding mortgages insured pursuant to firm commitments issued on or after the rule's effective date would, if directed by the Department, seek a deficiency judgment in connection with any foreclosure action. In any case in which the mortgagee seeks a deficiency judgment in response to the Secretary's demand or request, the Department would reimburse the mortgagee for the full additional costs of seeking the judgment.

As part of its overall program to strengthen debt collection efforts, and in order to help deter abuses of FHA single family programs by a small minority of mortgagors, the Department has determined that deficiency judgments should, and will, actively be sought under appropriate conditions. In determining whether a deficiency judgment should be sought in conjunction with a single family foreclosure, the Department will take the following factors into account:

1. Whether the mortgagor has defaulted on one or more other HUD insured mortgages or loans, resulting in the payment of insurance claims.
2. Whether the mortgagor treats its ownership as an investment and the mortgagor, or persons or entities with which it has been affiliated, have defaulted on one or more other FHA insured mortgages or loans, resulting in the payment of insurance claims.
3. Whether it is feasible under State law to seek a deficiency judgment.
4. The cost-effectiveness of seeking a deficiency judgment, considering, among other factors, the probable amount of the deficiency judgment obtainable, the additional costs attributable to seeking a deficiency judgment and the likelihood of successfully recovering on any judgment.
5. Such other factors as the Commissioner may deem appropriate.

With respect to foreclosures carried out in connection with mortgages insured pursuant to firm commitments issued on or after the effective date of this rule, the Commissioner would have the discretion to require a mortgagee diligently to pursue a deficiency judgment. Similarly, the Department could require compliance in the case of mortgages insured as a result of direct endorsement processing where the credit worksheet was signed by the mortgagee's approved underwriter on or after the effective date of the rule. In the case of mortgages not within the mandatory scope of the rule as described above, the rule simply affirms that the Commissioner may make a timely request that the mortgagee obtain a deficiency judgment in appropriate cases. In all cases in which the Department either directs or requests that the mortgagee pursue a deficiency judgment, the Commissioner will fully reimburse the mortgagee for any additional costs incurred in seeking the judgment.

This rule adopts as final, without change, the proposed rule published by the Department on February 12, 1987. Public comment on the proposed rule was requested at the time of publication. A description of, and Departmental response to, the public comments received follows.

Public Comments on Proposed Rule

Forty-four public comments were received. Two were from national trade associations; six from mortgage servicers with portfolios of FHA-insured loans; one from a large mortgage-holding institution; and thirty-five from individuals, mostly realtors situated in the Houston, Texas area.

The comments of the individual realtors were brief and general in nature. They expressed a fear for the demise of the FHA if the rule were implemented but generally provided no detailed reasons or further explanation. We believe these fears are unfounded. They are probably based upon a misunderstanding of the intent of the rule and a failure to note that HUD would actually be seeking deficiency judgments only in a limited number of cases (see item numbered 7 below).

The other (institutional) commenters understand and support HUD's need to diminish the current level of abuses in the FHA's system of providing mortgage insurance. They did, however, express reservations about the cost effectiveness of a more vigorous pursuit of deficiency judgments, and expressed concern about the impact the rule might have on participating lenders. The concerns comprised legal, administrative, and practical considerations. It was also recommended that HUD adopt an indemnification provision (similar to that used by the Veterans Administration), instead of utilizing deficiency judgments as a principal means of collecting deficiency amounts from mortgagors whose loans are foreclosed but who still have significant assets (see item numbered 8 below).

The Department has under active consideration an indemnification proposal similar to that in use by the Veterans Administration. Such a provision, if and when proposed and adopted, could be used in conjunction with the authority to seek deficiency judgments provided in this rule. In all probability seeking deficiency judgments would then be a supplementary, rather than a primary, means to protect the Government's financial interest in this area.

What follows is a statement of specific questions and issues raised by the public commenters, and the Department's response.

1. Reimbursement of Expenses Arising from the Seeking of Deficiency Judgments

Several commenters believed that the Department would be able to *require* lenders to pursue deficiency judgments without itself being required to "make whole" the mortgagees for extra expenses incurred in carrying out the Department's directives. This is not correct. Section 203.402(o), a paragraph that is revised in this final rule, provides

that mortgagees are to be fully reimbursed by HUD for additional attorney fees and other costs of seeking deficiency judgments beyond merely foreclosing on the property.

2. Required Notification of HUD by Mortgagees of Pending Foreclosure, and Timely Notice from HUD to Mortgagees of Intent to Pursue Deficiency Judgments

Two commenters raised the question of the required timely notification by a mortgagee to HUD that it was about to foreclose on an FHA loan, and the attendant expense to mortgagees of doing so in every instance. The Department plans to utilize various existing internal reports as well as its Single Family Default Monitoring System, to which lenders have been required to provide default data on their FHA loan portfolios for some time, to retrieve this information. HUD will then determine whether to pursue deficiency judgments against mortgagors to be foreclosed and will notify lenders in ample time that it intends to do so. The Department foresees little additional paperwork generated for lenders by this new regulation. Use of deficiency judgments will be limited to worst-case offenders, and the added burden (for lenders with mortgages from those States where pursuit of deficiency judgments is generally feasible) is expected to be slight.

The Department declines to establish a formal standard of "timeliness" or a specific deadline with respect to notification of lenders on deficiency judgments. It will communicate its decisions on deficiency judgments in all cases early enough to be fair and reasonable to lenders.

3. Establishment of an Appeal Process for Mortgagees; Sanctions for Lender Non-Cooperation

One commenter suggested that mortgagees instructed by HUD to seek deficiency judgments against particular mortgagors be able to contest the Department's decision through a formal administrative process. At this time, no formal appeal process is included in the regulation. The Department expects to utilize deficiency judgments in a sparing manner, however, and only in those jurisdictions, and under those circumstances, where the action would be feasible and productive. Section 203.369(a) of the rule enumerates the factors to be taken into account in deciding whether to pursue a deficiency judgment, such as multiple previous defaults on HUD-insured mortgages, investor status of mortgagors, cost-effectiveness, and applicable State laws.

A mortgagee who differs with HUD's decision to pursue a particular deficiency judgment will be able to voice those concerns to the field office making the initial determination in an effort to bring additional facts to light and possibly cause the Department to reverse its decision. Inasmuch as the regulations now provide for full reimbursement of the additional costs incurred by lenders pursuing deficiency judgments, and the regulations also authorize the Department to *require* pursuit of deficiency judgments, HUD sees little to be gained by specifying what sanctions will be utilized against lenders refusing to accede to the Department's requirements. Should there be a significant lack of cooperation, the Department will respond appropriately in light of that problem.

4. Specifying the Mortgagee Responsible for Pursuing Deficiency Judgments: Instances Where Mortgages Have Been Sold

One commenter indicated that references contained in proposed § 203.369, paragraphs (a) and (b), did not specify what was meant by the term "mortgagee" in an instance where a loan was directly endorsed and the credit worksheet was signed by the originating mortgagee's approved underwriter, and the loan was later sold to another mortgagee. The term "mortgagee" is defined in section 201 of the National Housing Act and in 24 CFR 203.251 as including the original lender and his successors and assigns approved by the Secretary. Accordingly, where the context relates to loan origination, (as in clause numbered (2) of the first sentence of § 203.369(a)) the term means the original lender. On the other hand, where the context relates to loan servicing—*i.e.*, the mortgagee pursuing the deficiency judgment, the term "mortgagee" means the current owner of the loan.

5. Legal "Objection" to HUD Pursuing Deficiency Judgments Against Mortgagors Insured by FHA

One commenter questioned the legality of the Department's pursuing and collecting a deficiency judgment from a mortgagor who had paid FHA insurance premiums on his now-forclosed mortgage. The pursuit of a deficiency judgment as a means of recouping the losses incurred through foreclosure and payment of the lender's claim has always been available to the Department. In Form HUD–92900, "Mortgagee's Application for Mortgagor Approval and Commitment for Mortgage Insurance," a *Notice to Borrowers* is contained in paragraph 31B which reads:

> Some home buyers have the mistaken impression that if they sell their home when they move to another locality, or dispose of it for any other reason, they are no longer liable for the mortgage payments and that liability for these payments is solely that of the new owners. Even though the new owners may agree in writing to assume liability for your mortgage payments, this assumption agreement will not relieve you from liability to the holder of the note which you signed when you obtained the loan to buy the property. Also, unless you are able to sell the property to a buyer who is acceptable to the VA or to HUD/FHA and who will assume the payment of your obligation to the lender, *you will not be relieved from liability to repay any claim which the VA or HUD/FHA may be required to pay your lender on account of default in your loan payments. The amount of any such claim payment will be a debt owed by you to the Federal Government. This debt will be the object of established collection procedures.* (emphasis added)

Mortgage insurance is protection that is extended to the mortgagee in the event of default and foreclosure, even though this coverage is purchased, and the premium is paid, by the mortgagor. There are some additional benefits of FHA insurance that accrue to the mortgagor (such as the right to apply for assignment of the mortgage to HUD), but they do *not* include a bar on the Department's collection, from the mortgagor, of any deficiency amount resulting from HUD's payment of any FHA claim to an insured lender. This collection option is set forth in section 204 of the National Housing Act as follows:

> (g) . . . [T]he Secretary shall also have power to pursue to final collection, by way of compromise or otherwise, all claims against mortgagors assigned by mortgagees to the secretary as provided in this section. . . .

Pursuing and collecting deficiency judgments is therefore already authorized under the law. This final rule sets forth the Department's authority to require lenders to seek deficiency judgments against particular mortgagors, and assign these judgments to the Department. The rule also provides notice of the criteria HUD will use in determining which mortgagors will be the object of collection efforts.

6. Legal Liability for Errors in Information Reported by Lenders

One commenter was concerned that lenders could be considered legally liable for incorrect information they inadvertently transmit to HUD, which the Department might use as justification to pursue deficiency judgments against particular mortgagors.

The Department has the power to "pursue to final collection" *all* claims against mortgagors that are assigned by mortgagees to HUD. Information from lenders will customarily be provided on a routine basis to the Single Family Default Monitoring System (SFDMS) and via other existing lines of communication. The Department will rely mainly upon these existing systems, including their safeguards, in making decisions with respect to deficiency judgments.

7. Fear that the Demise of FHA Will Result from Greater Enforcement of Deficiency Judgments by HUD

Most of the thirty-five comments received from individuals came from realtors in the Houston area who believe that the proposed rule on deficiency judgments was a signal that the FHA mortgage insurance system was about to break down amidst wholesale, and very disruptive, pursuit by the Department of deficiency judgments against ordinary single-family mortgagors. Some of the commenters emphasized that average single-family mortgagors, after losing their homes through foreclosure, were hardly in a financial position to meet deficiency judgment obligations. The Department is aware of this, and reiterates that this rule, while making it possible to require lenders to seek deficiency judgments, will *not* be used routinely against "average" mortgagors whose loans have been foreclosed. The Department intends to seek deficiency judgments (in those States where pursuit of deficiency judgments is feasible) against mortgagors who still retain significant assets after foreclosure and who fall into such categories as repeat defaulters and non-owner occupants (investors). Thus, the nature, and the public's perception, of the FHA mortgage insurance program will not change appreciably after implementation of this Final Rule.

8. "Indemnification" Option to Deficiency Judgments

One commenter suggested "an alternative that would eliminate many of the operational problems, as well as the state law constraints, without abridging HUD's right to recover foreclosure losses from certain borrowers. HUD and MBA could consider seeking a statutory change that would give HUD a separate cause of action against borrowers who cause losses for the government. By statute, the FHA borrower could be required to indemnify HUD for any deficiency on an FHA-insured mortgage. This would be similar to the provision of the Veterans Administration's (VA's) Home Loan Guaranty Program, which provides that 'any amounts paid by the (VA) Administrator on account of the liabilities of any veteran guaranteed or insured under the provisions of 38 U.S.C. Ch. 37 shall constitute a debt owing to the U.S. by such veteran.'

"Such indemnification would enable HUD to recover losses on those cases deemed appropriate, without regard to state law restrictions on the collection of deficiency judgments. Thus, HUD's acquisition of foreclosed properties and HUD's ability to market acquired properties would not be delayed."

As stated earlier in this Preamble, the Department is actively considering this "Indemnification" proposal, but does not regard it as an alternative to this final rule—at least not at this time.

9. Responsibility for "Collection" of Deficiency Judgments

Several commenters stated they would strenuously oppose any attempt to impose upon lenders the burden of tracking the deficiency judgment through to ultimate collection.

Deficiency judgments will be assigned to HUD and the Department will have responsibility for ultimate collection.

Procedural Requirements

This rule does not constitute a "major rule" as that term is defined in § 1(b) of Executive Order 12291 on Federal Regulation issued by the President of February 17, 1981. Analysis of the proposed rule indicates that it does not have an annual effect on the economy of $100 million or more; cause a major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or have a significant adverse effect on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. In only a limited number of cases will deficiency judgments be pursued under the rule and those are likely to be cases where program abuse could be inferred.

This rule was listed as item H–6–86 [Sequence Number 981] under the Office of Housing in the Department's Semiannual Agenda of Regulations published on October 26, 1987 (52 FR 40358) under Executive Order 12291 and the Regulatory Flexibility Act.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket Clerk, at the above address.

The mortgage insurance programs listed in the Catalog of Federal Domestic Assistance under the following numbers would be covered under this rule: 14.108, 14.117, 14.119, 14.120, 14.121, 14.122, 14.123, 14.132, 14.133, 14.140, 14.152, 14.159, 14.161, 14.165, 14.166, 14.172 and 14.175.

Information collection requirements contained in this rule have been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). The OMB control number assigned to the new § 203.369 is 2535–0093.

List of Subjects in 24 CFR Part 203

Mortgage insurance, Insurance of single family mortgages.

Accordingly, 24 CFR Part 203 is amended as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

1. The authority citation for 24 CFR Part 203 continues to read as follows:

Authority: Secs. 203, 204 and 211, National Housing Act (12 U.S.C. 1709, 1710, 1715b); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d). In addition, Subpart C is also issued under sec. 230, National Housing Act (12 U.S.C. 1715(u)).

2. 24 CFR Part 203 is amended by adding immediately after § 203.368 the following new § 203.369:

§ 203.369 Deficiency judgments.

(a) With respect to claims for insurance benefits filed in connection with mortgages insured pursuant to firm commitments issued on or after March 28, 1988, or pursuant to direct endorsement processing under §§ 200.163–200.164a of this chapter where the credit worksheet was signed by the mortgagee's approved underwriter on or after March 28, 1988, the Commissioner may, upon giving timely notice, require the mortgagee diligently to pursue a deficiency judgment in connection with the foreclosure and to assign the judgment to the Commissioner. In determining whether a deficiency judgment should be sought in connection with a single family foreclosure, the

Commissioner will take the following factors into account:

(1) Whether the mortgagor has defaulted on one or more other HUD insured mortgages or loans, resulting in the payment of insurance claims;

(2) Whether the mortgagor treats its ownership as an investment and the mortgagor, or persons or entities with which it has been affiliated, have defaulted on one or more other FHA insured mortgages or loans, resulting in the payment of insurance claims;

(3) Whether it is feasible under State law to seek a deficiency judgment;

(4) The cost-effectiveness of seeking a deficiency judgment, considering, among other factors, the probable amount of the deficiency judgment obtainable, the additional costs attributable to seeking a deficiency judgment and the likelihood of successfully recovering on any judgment; and

(5) Such other factors as the Commissioner may determine appropriate. In cases where the Commissioner requires the pursuit of a deficiency judgment and provides the mortgagee with the Commissioner's estimate of the fair market value of the property, less adjustments, in accordance with § 203.368(e), the mortgagee shall tender a bid at the foreclosure sale in that amount, and shall take all other appropriate steps in accordance with State law to obtain a deficiency judgment.

(b) With respect to claims for insurance benefits filed in connection with mortgages insured pursuant to firm commitments issued before March 28, 1988, or pursuant to direct endorsement processing under § 200.163–200.164a of this chapter where the credit worksheet was signed by the mortgagee's approved underwriter before March 28, 1988, the Commissioner may, in accordance with the criteria set forth in paragraph (a) of this section and upon giving timely notice, request that the mortgagee diligently pursue a deficiency judgment in connection with the foreclosure. Any judgment obtained shall be assigned to the Commissioner.

(c) In cases where pursuit of a deficiency judgment is requested or required under this section, the Commissioner, where the Commissioner determines it appropriate under State law requirements, may extend the otherwise applicable period of time within which a deficiency judgment (and other claims against the mortgagor) and related credit documents must be assigned to the Commissioner under § 203.360, § 203.367 or § 203.368 of this subpart.

(d) In addition to meeting the requirements of § 203.356, in cases where the Commissioner determines it necessary because of State law requirements, the Commissioner may also require (or request, as the Commissioner may determine) the mortgagee to provide the Commissioner with notice of the mortgagee's intent to institute foreclosure proceedings a reasonable amount of time before proceedings are instituted, in order that the Commissioner may be able effectively to require or request the mortgagee, in appropriate cases, to seek a deficiency judgment.

(The information collection requirements contained in this section have been approved by the Office of Management and Budget and assigned control number 2535–0093.)

3. In § 203.402, paragraph (o) is revised to read as follows:

§ 203.402 Items included in payment—conveyed and non-conveyed properties.

* * * * *

(o) In any case in which the Commissioner, pursuant to § 203.369, requires or requests that the mortgagee seek a deficiency judgment, an amount necessary to reimburse the mortgagee for those additional costs incurred that exceed the costs of foreclosure. In those jurisidictions that require the initiation of a judicial foreclosure action in order to obtain a deficiency judgment, a mortgagee shall receive full reimbursement for the costs of the foreclosure action, where, but for the requested deficiency judgment, judicial foreclosure would not have been necessary.

Date: February 8, 1988.

Thomas T. Demery,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 88–3205 Filed 2–12–88; 8:45 am]

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24 CFR Part 882

[Docket No. R–88–1205; FR 1829]

Shared Housing in the Section 8 Existing Housing Certificate Program; Amendment to Final Rule

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends a final rule that appeared in the **Federal Register** on June 11, 1986 (51 FR 21300), for which corrections were published on July 3, 1986 (51 FR 24324), on August 18, 1986 (51 FR 29463), and on November 21, 1986 (51 FR 42090). The purposes of this amendment are to allow the use of "exception rents" in determining the maximum initial rent for a unit in Shared Housing (under § 882.320(b)), to require each sharing family initially to lease space of appropriate size (under § 882.315(b)(1)), and to remove a dollar limit on the gross rent payable for each family (under § 882.320(d)), which becomes unnecessary with the addition of the unit size requirement. The changes to § 882.320 will make the Shared Housing component of the Section 8 Certificate program like the rest of the program where there is no reason to make a distinction. The change to § 882.315 will require an appropriate portion of a unit to be leased, so that the limit stated in § 882.320(b) on the Fair Market Rent acts as an appropriate dollar limit.

EFFECTIVE DATE: March 28, 1988 for the June 11, 1986 rule, as amended by this rule. (Under section 7(o)(3) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)(3)), this final rule cannot become effective until after the first period of 30 calendar days of continuous session of Congress that occurs after the date of the rule's publication. The final rule that this rule amends has not yet been made effective, although 30 days of continuous session of Congress have expired since its publication in June 1986. The Department is now ready to implement the program. Therefore, the June 1986 rule as amended by this rule will become effective on March 15, 1988, a date by which the rquired waiting period for this rule will have expired.)

FOR FURTHER INFORMATION CONTACT: Susan Loritz, Existing Housing Division, Office of Multifamily Housing Programs, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410–8000, telephone (202) 755–6887. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 882.320(b), a section added for Shared Housing to correspond to § 882.106 for the regular Certificate program, would provide that the initial gross rent for a family may not exceed the pro rata portion of the "published" Fair Market Rent (FMR) for the entire unit. This rule amends that section to provide that the initial gross rent may not exceed the pro rata portion of the published Fair Market Rent or other rent approved in accordance with § 882.106(a) for the entire unit ("exception rent"). An "exception rent" is an initial gross rent (rent to owner plus allowance for tenant-paid utilities) higher than the published FMR that is approved for an