

for prohibited activities. Researchers maintain the same rights of appeal.

**DATES:** This rule is effective March 9, 2011 without further action, unless adverse comment is received by March 9, 2011. If adverse comment is received, NARA will publish a timely withdrawal of the rule in the **Federal Register**, and publish a notice of proposed rulemaking.

**ADDRESSES:** NARA invites interested persons to submit comments on this direct final rule. Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* Submit comments by facsimile transmission to 301-837-0319.

- *Mail:* Send comments to Regulations Comments Desk (NPOL), Room 4100, Policy and Planning Staff, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001.

- *Hand Delivery or Courier:* Deliver comments to 8601 Adelphi Road, College Park, MD.

**FOR FURTHER INFORMATION CONTACT:** Stuart Culy on (301) 837-0970.

**SUPPLEMENTARY INFORMATION:** NARA is authorized to revoke researchers' privileges under certain circumstances by following the procedures outlined in 36 CFR part 1254. The privileges may be revoked for the following behaviors:

Refusing to follow the rules and regulations of a NARA facility; acting or speaking in a way that may be dangerous to documents held by NARA or NARA property; acting or speaking in a way that may be dangerous to other researchers, NARA or contractor employees, or volunteers; or verbally or physically harassing or annoying other researchers, NARA or contractor employees, or volunteers. This change will align the appeal authority for researchers whose research privileges have been revoked with the appeal authority for individuals who have been banned from NARA facilities for the following prohibited activities on NARA properties: Carrying or using guns or weapons, using or in possession of alcohol or illegal drugs; gambling; soliciting; stealing NARA property; willfully damaging or destroying NARA property; creating any hazard to persons or things; throwing anything from or at a NARA building; improperly disposing of rubbish; acting in a disorderly fashion; acting in a manner that creates a loud or unusual noise or a nuisance; acting in a manner that unreasonably obstructs the usual use of NARA facilities; acting in a manner that

otherwise impedes or disrupts the performance of official duties by Government and contract employees; acting in a manner that prevents the general public from obtaining NARA-provided services in a timely manner; loitering; or threatening directly (*e.g.*, in-person communications or physical gestures) or indirectly (*e.g.*, via regular mail, electronic mail, or phone) any NARA employee, visitor, volunteer, contractor, other building occupants, or property, which is the Deputy Archivist of the United States. Researchers maintain the same rights of appeal.

Revocation actions are taken by staff at the NARA facility where an infraction takes place. In turn, researchers have the right to appeal the revocation to a higher authority than the local NARA facility director; a process which is also described in 36 CFR part 1254. The current appeal authority is the Archivist of the United States, yet the appeal authority for the more severe penalty of banning individuals from NARA facilities under 36 CFR part 1280, is the Deputy Archivist of the United States. This direct final rule will only change the appeal authority for researchers whose privileges have been revoked, from the Archivist of the United States to the Deputy Archivist of the United States, aligning the two disciplinary appeal processes. Researchers retain their full right to appeal revocation decisions.

NARA believes that a Notice of Proposed Rule Making is not necessary for "good cause" as permitted by the Administrative Procedures Act (5 U.S.C. 553(b)(B)) as this rule is a nomenclature change only, and there are no changes to the public's right to appeal revocation decisions.

This direct final rule is not a significant regulatory action for the purposes of Executive Order 12866. As required by the Regulatory Flexibility Act, it is hereby certified that this direct final rule will not have a significant impact on small entities.

#### List of Subjects in 36 CFR Part 1254

Archives and records.

For the reasons set forth in the preamble, NARA amends part 1254 of title 36, Code of Federal Regulations, as follows:

#### PART 1254—USING RECORDS AND DONATED HISTORICAL MATERIALS

■ 1. The authority citation for part 1254 continues to read as follows:

**Authority:** 44 U.S.C. 2101-2118.

#### § 1254.50 [Amended]

■ 2. In § 1254.50, remove the word "Archivist" and add, in its place, the words "Deputy Archivist" wherever it appears in the section.

#### § 1254.52 [Amended]

■ 3. In § 1254.52, remove the word "Archivist" and add, in its place, the words "Deputy Archivist" wherever it appears in the section.

Dated: January 25, 2011.

**David S. Ferriero,**

*Archivist of the United States.*

[FR Doc. 2011-2033 Filed 2-4-11; 8:45 am]

**BILLING CODE 7515-01-P**

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 36

RIN 2900-AN78

#### Loan Guaranty Revised Loan Modification Procedures

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Interim final rule.

**SUMMARY:** This document amends a Department of Veterans Affairs (VA) Loan Guaranty regulation related to modification of guaranteed housing loans in default. Specifically, changes are made to requirements related to maximum interest rates on modified loans and to items that may be capitalized in a modified loan amount. In addition, we are revising the regulation to clarify that the holder of a loan may seek VA approval for a loan modification that does not otherwise meet prescribed conditions. The amendments are intended to liberalize the requirements for modification of VA-guaranteed loans and provide holders more options for working with veterans to avoid foreclosure.

**DATES:** This interim final rule is effective February 7, 2011. Comments must be received on or before April 8, 2011.

**ADDRESSES:** Written comments may be submitted through <http://www.Regulations.gov>; by mail or hand-delivery to Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273-9026. Comments should indicate that they are submitted in response to "RIN 2900-AN78—Loan Guaranty Revised Loan Modification Procedures." Copies of comments received will be available for public inspection in the Office of

Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461-4923 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at <http://www.Regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Mike Frueh, Assistant Director for Loan Management (261), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, at 202-461-9521. (This is not a toll-free telephone number.)

**SUPPLEMENTARY INFORMATION:** Under 38 U.S.C. chapter 37, VA guarantees loans made by private lenders to veterans for the purchase, construction, and refinancing of homes owned and occupied by veterans. On February 1, 2008, VA published in the **Federal Register** (73 FR 6294) a final rule that extensively revised 38 CFR part 36 to modernize procedures for servicing VA-guaranteed home loans. A new subpart F was added to include § 36.4815, which provided detailed parameters for private loan servicers to modify delinquent loans without seeking prior approval from VA, thereby enabling servicers to quickly assist veteran borrowers in avoiding foreclosure. On June 15, 2010, VA published in the **Federal Register** (75 FR 33704) a final rule that redesignated subpart F (the 36.4800 series) to replace obsolete subpart B (the 36.4300 series) in its entirety.

Loan modifications typically give a borrower a fresh start by adding all or a portion of the delinquent amounts to the loan balance and resetting the due date for payments. Modifications usually adjust the terms of the loan agreement by: capitalizing delinquent interest, advances, or other amounts due; extending the repayment terms; changing the interest rate payable; or combining some or all of these or other adjustments to the loan terms.

In developing the parameters for acceptable loan modifications, we considered many options to balance the program mission of assisting veteran borrowers in retaining homeownership against the needs of private investors to receive a fair profit on their investments. We believed we had adequately addressed those concerns in the 2008 amendments to VA's loan guaranty regulations. However, since those amendments, we have encountered two sets of circumstances

that have caused difficulty in easily modifying loans to assist veterans in retaining their homes.

In light of the continuing difficulties in the housing industry that are affecting the ability of many veterans to retain ownership of their homes, and in keeping with the Administration's plan to help borrowers retain home ownership through affordable loan modifications, this interim final rule is issued to immediately rectify those two issues. In addition, this interim final rule revises the regulation to clarify in § 36.4315(b) that holders may seek VA approval for a loan modification if the proposed modification does not otherwise meet the conditions prescribed in § 36.4315(a).

The first problem noted since the 2008 amendments concerns interest rates on modified loans. Current 38 CFR 36.4315(c) establishes the maximum interest rate on a modified loan as the previous month's Government National Mortgage Association (GNMA) coupon plus ½ percent. We understood that the vast majority of VA-guaranteed loans were placed in GNMA pools, and by allowing the maximum rate on a modified loan to equal that of a newly originated loan, we believed the mortgage industry would be able to easily modify loans to help veterans avoid foreclosure and place those modified loans in new GNMA pools. However, we have learned that this requirement is not quite as effective as planned in helping veterans to avoid foreclosure through loan modification. VA-guaranteed loans that are held by State housing-finance authorities often specifically prohibit changes in the interest rate when modifying loans. In the present low-interest-rate environment, current § 36.4315(c) creates difficulties in modifying loans that were originated with State housing-finance authority assistance at higher interest rates. Therefore, we are modifying § 36.4315 to allow the interest rate on a modified loan to remain the same as the original interest rate when the loan is held by a State housing-finance authority where the law precludes a rate revision. See 38 CFR 36.4315(a)(8)(iii).

We are further modifying § 36.4315 to allow for easier calculation of the maximum interest rate on all other modified loans (*i.e.*, those loans not held by a State housing-finance authority). In September 2009, the Department of Housing and Urban Development (HUD) issued Mortgagee Letter 2009-35 to change the maximum interest rate on modified loans to no more than 50 basis points above the most recent Freddie Mac Weekly Primary Mortgage Market

Survey Rate for 30-year fixed-rate conforming mortgages (U.S. average), rounded to the nearest one-eighth of one percent (0.125%), as of the date the Modification Agreement is executed. Because the information on GNMA coupon rates is not as widely available as that of the Freddie Mac Market Survey Rate (which may be found online at <http://www.freddiemac.com/pmms/>, as well as in the list of Selected Interest Rates that the Federal Reserve Board publishes weekly in its Statistical Release H.15 at <http://www.federalreserve.gov/releases/h15/>), we are amending § 36.4315 to adopt a similar standard. Under § 36.4315(a)(8)(i), the interest rate on a modified VA-guaranteed loan (not held by a State housing-finance authority) may not exceed 50 basis points above the most recent Freddie Mac Weekly Primary Mortgage Market Survey Rate for 30-year fixed-rate conforming mortgages (U.S. average), rounded to the nearest one-eighth of one percent (0.125%), as of the date the Modification Agreement is executed.

Using the Freddie Mac Market Rate as a basis for computing the maximum interest rate on a modified loan establishes uniformity with another large Federal home loan program, and will enable loan servicers to more easily determine maximum allowable rates for loan modifications. This will enable veterans to receive the benefits of capitalization and/or extension on a modified loan, even if the present interest rate environment is higher than at loan origination. The majority of VA-guaranteed loans are in GNMA pools, which require servicers to "buy-out" the loans from the pools in order to modify them. GNMA determines the guidelines for determining when loans can be bought out of pools, and this interim final rule does not release loan holders from requirements under the contracts they have with GNMA. (For more details see [http://www.ginniemae.gov/apm/apm\\_pdf/10-01.pdf](http://www.ginniemae.gov/apm/apm_pdf/10-01.pdf)). A servicer is then faced with the task of attempting to find another group of loans with similar interest rates in order to "repool" the modified loan. By allowing the modified loan rate to be the Freddie Mac rate plus 50 basis points, which is similar to that of other new VA-guaranteed loans being originated, the servicer will be better able to repool a modified loan and should be more willing to complete a modification.

Although monthly loan payments may increase slightly under the interim final rule due to capitalization or small increases in interest rates, elimination of the delinquency by modification will benefit individual veterans by avoiding

foreclosure and receiving a fresh start after resolving financial difficulties. However, we will require the servicer to submit to VA for prior approval any loan modification where the interest rate will increase more than one percent over the existing interest rate on the loan. This will provide us an opportunity to determine if it is perhaps more appropriate to utilize our authority under 38 U.S.C. 3732 to refund (purchase) the loan and modify the loan at a lower-than-market interest rate.

The second problem noted after the 2008 amendments concerns those items that may be included in a modified loan amount. After we proposed former § 36.4815 (redesignated as current § 36.4315), public comments suggested that the new modification procedures should provide for other expenses of modification. Under former § 36.4815, loan modification expenses could not be included in the modified loan amount. In the 2008 amendments, we allowed inclusion of unpaid principal, accrued interest, and deficits in the taxes and insurance impound accounts in the modified indebtedness. Also permitted were advances required to preserve the lien position, such as homeowner association fees, special assessments, and water and sewer liens. We specifically excluded other costs such as late fees, legal fees, and related foreclosure costs.

In Mortgagee Letter 2008–21, HUD issued a change in its position that allows foreclosure costs actually incurred to be capitalized into the modified loan balance. The Letter states that, in some cases where foreclosure had been initiated and the borrowers' circumstances had improved to the point that a modification could allow them to resume making regular monthly payments, HUD found the borrowers had insufficient funds to pay legal fees and other foreclosure costs. Therefore, the borrowers could not complete loan modifications without a change in the HUD loss-mitigation program. While the hope remains that modifications can be completed early in the course of a default—before accrual of costly fees and expenses—we realize that may not always be the case.

In order to allow veteran borrowers to avail themselves of the opportunity to retain homeownership by means of a loan modification (even after the foreclosure process has started), we are amending current § 36.4315 to allow legal fees and foreclosure costs to be capitalized into the modified loan balance. See § 36.4315(a)(10). Under paragraph (a)(10), VA is also allowing capitalization of the cost of a title insurance policy endorsement or other

form of update on the modified loan. HUD requires that any late charges should be waived in connection with a modification to give the borrower a fresh start. VA agrees with this beneficial approach and has included it in § 36.4315(a)(11). The incentive paid for a successful loan modification should more than offset any lost late charge income due to the amendment requiring waiver of late charges when a loan is modified.

Finally, we are reorganizing § 36.4315 to clarify in paragraph (b) that holders may seek VA approval for a loan modification if the proposed modification does not otherwise meet the conditions prescribed in paragraph (a). Current § 36.4315(a) and (b) specifically include language stating that, without the prior approval of the Secretary of Veterans Affairs, a loan may be modified if the conditions of those sections are met. However, this structure does not adequately reflect our intent that a holder may seek prior approval for a loan modification that does not meet other conditions for modification. Therefore, this interim final rule redesignates current § 36.4315(b) through (i) as § 36.4315(a)(7) through (a)(14) to clarify that, if the paragraph (a) conditions are met, a loan may be modified without prior approval of the Secretary and that the holder may seek prior approval for a modification not meeting one of those conditions. In light of these clarifying amendments, we are deleting language in current paragraphs (a) and (b) that is unnecessary. A new paragraph (b) has been added to specifically state, rather than leave for inference, that if a loan fails to meet one or more of the conditions within the section, the holder must submit the loan file to the Secretary for approval before entering into any loan modification agreement. This new paragraph provides a guiding principle that the Secretary will approve such a request when he determines that it is in the best interests of the veteran and the Government after balancing the risks of non-approval versus approval despite the absence of one or more of the conditions identified in paragraph (a). Current § 36.4315(j) has been redesignated as § 36.4315(c) and notes that the provisions of § 36.4315 do not create a right to a loan modification, but simply authorizes the holder to modify a loan in certain situations without prior approval of the Secretary or upon the Secretary's approval in other situations.

#### **Administrative Procedures Act**

Pursuant to 5 U.S.C. 553(b)(B) and (d)(3), we find that there is good cause to dispense with advance public notice

and opportunity to comment on this rule and good cause to publish this rule with an immediate effective date. This interim final rule is necessary to immediately allow private loan holders to assist more veteran borrowers by authorizing loan modifications under the new rules.

VA has seen monthly foreclosures of VA-guaranteed loans increase from 545 in September 2007 (the end of fiscal year 2007) to 1,328 in December 2009, to 2,054 in August of 2010 (the most recent data as of preparation of this document). Delay in the implementation of this rule could prevent some veteran borrowers from obtaining loan modifications, which will lead to additional foreclosures. This means that more veterans will lose their homes and their entitlement to VA loan guaranty benefits (unless the loss is repaid). It also means that more families will be displaced and have to begin the long road to financial and credit recovery, which can take years. Moreover, for each additional guaranty claim VA must make, the taxpayer must shoulder some of the financial responsibility.

Immediate implementation of the rule will not only assist veterans and other taxpayers, but will do so without having an adverse impact on the mortgage industry. The new rule will enable servicers to offer more loss mitigation opportunities and continue servicing VA-guaranteed loans, rather than seeing their servicing fees terminated as the loans are foreclosed.

We started tracking completed loan modifications after the 2008 amendments to VA's loan guaranty regulations. During fiscal year 2009 the number of modifications completed averaged 360 per month. However, there have been many direct inquiries from loan servicers asking about other loss mitigation options when State housing-finance authorities are unable to modify loans at lower interest rates. Other than VA refunding (purchasing) some of those loans and reducing the interest rates, there have been no other viable alternatives to help Veterans in those situations avoid foreclosure. Refunding by VA essentially replaces private financing with Government funds, and requires a substantial initial investment that takes as long as 30 years to recover, so it may not always be the best option for the Government. The ability to complete loan modifications at existing interest rates will enable private loan servicers to help more veteran borrowers remain in their homes and avoid foreclosure. When veterans are able to reinstate delinquent loans by modifying their loans and avoiding foreclosure, VA will be required to pay

fewer claims under its loan guaranty. In addition, by allowing inclusion of legal fees for actual termination expenses incurred prior to modification, more veterans will be able to afford the other up-front expenses associated with modification and avoid foreclosure.

For the foregoing reasons, we have determined that delay in implementing these regulations is unnecessary, impractical under the circumstances, and contrary to the public interest. Accordingly, we are issuing this rule as an interim final rule with immediate effect.

#### **Paperwork Reduction Act of 1995**

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

#### **Unfunded Mandates**

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any given year. This rule will have no such effect on State, local, and Tribal governments, or on the private sector.

#### **Executive Order 12866**

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a “significant regulatory action,” requiring review by the Office of Management and Budget (OMB) unless OMB waives such review, as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this interim final rule have been examined, and it has been determined to be a significant regulatory action under Executive Order 12866 because it may raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order. Accordingly, this rule was submitted to OMB for review.

#### **Regulatory Flexibility Act**

The Secretary hereby certifies that this interim final rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The vast majority of VA loans are serviced by very large financial companies. Only a handful of small entities service VA loans and they service only a very small number of loans. This interim final rule, which only impacts Veterans, other individual obligors with guaranteed loans, and companies that service VA loans, will have very minor economic impact on a very small number of small entities servicing such loans. Therefore, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

#### **Catalog of Federal Domestic Assistance**

The Catalog of Federal Domestic Assistance number and title for the program affected by this document is 64.114, Veterans Housing—Guaranteed and Insured Loans.

#### **Signing Authority**

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on November 1, 2010, for publication.

#### **List of Subjects in 38 CFR Part 36**

Condominiums, Handicapped, Housing, Indians, Individuals with disabilities, Loan programs—housing and community development, Loan programs—Indians, Loan programs—Veterans, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Veterans.

Dated: February 1, 2011

**Robert C. McFetridge,**

*Director, Regulations Policy and Management, Department of Veterans Affairs.*

For the reasons stated in the preamble, VA amends 38 CFR part 36 as follows:

#### **PART 36—LOAN GUARANTY**

■ 1. The authority citation for part 36 continues to read as follows:

**Authority:** 38 U.S.C. 501 and as otherwise noted.

■ 2. Revise § 36.4315 to read as follows:

##### **§ 36.4315 Loan modifications.**

(a) The terms of any guaranteed loan may be modified by written agreement between the holder and the borrower, without prior approval of the Secretary, if all of the following conditions are met:

- (1) The loan is in default;
- (2) The event or circumstances that caused the default has been or will be resolved and it is not expected to re-occur;
- (3) The obligor is considered to be a reasonable credit risk, based on a review by the holder of the obligor’s creditworthiness under the criteria specified in § 36.4340, including a current credit report. The fact of the recent default will not preclude the holder from determining the obligor is now a satisfactory credit risk provided the holder determines that the obligor is able to resume regular mortgage installments when the modification becomes effective based upon a review of the obligor’s current and anticipated income, expenses, and other obligations as provided in § 36.4340;
- (4) At least 12 monthly payments have been paid since the closing date of the loan;
- (5) The current owner(s) is obligated to repay the loan, and is party to the loan modification agreement;
- (6) The loan will be reinstated to performing status by virtue of the loan modification;
- (7) A loan has not been modified more than once in a 3-year period or more than 3 times during the life of the loan;
- (8) The loan as modified will bear a fixed-rate of interest, which—
  - (i) May not exceed the most recent Freddie Mac Weekly Primary Mortgage Market Survey Rate for 30-year fixed-rate conforming mortgages (U.S. Average), rounded to the nearest one-eighth of one percent (0.125%), as of the date the Modification Agreement is executed, plus 50 basis points;
  - (ii) After being determined and selected in accordance with paragraph

(i), is not more than one percent higher than the existing rate on the loan; or,

(iii) In the case of a loan in which a State, Territorial, or local governmental agency provided assistance to the veteran for the acquisition of the dwelling, and the law providing that assistance precludes any revision in the interest rate on the loan, then the interest rate on the modified loan is the same or less than that on the original note evidencing the loan;

(9) The unpaid balance of the modified loan will be re-amortized over the remaining life of the loan, or if the loan term is to be extended, the maturity date will not exceed the shorter of:

(i) 360 months from the due date of the first installment required under the modification, or

(ii) 120 months after the original maturity date of the loan (unless the original term was less than 360 months, in which case the term may be extended to 480 months from the due date of the first installment on the original loan);

(10) Only the following items may be included in the modified indebtedness: Unpaid principal; accrued interest; deficits in the taxes and insurance impound accounts; amounts incurred to pay actual legal fees and foreclosure costs related to the canceled foreclosure; the cost of a title insurance policy endorsement or other update for the modified loan; and advances required to preserve the lien position, such as homeowner association fees, special assessments, water and sewer liens, etc. Late fees and other charges may not be capitalized;

(11) The holder will not charge a processing fee, and all unpaid late fees will be waived. Any other actual costs incurred and legally chargeable, but which cannot be capitalized in the modified indebtedness, may be collected directly from the borrower as part of the modification process or waived, at the discretion of the servicer;

(12) Holders will ensure the first lien status of the modified loan;

(13) The dollar amount of the guaranty will not exceed the greater of:

(i) The original guaranty amount of the loan being modified (but if the modified loan amount is less than the original loan amount, then the amount of guaranty will be equal to the original guaranty percentage applied to the modified loan), or

(ii) 25 percent of the loan being modified subject to the statutory maximum specified at 38 U.S.C. 3703(a)(1)(B); and

(14) The obligor will not receive any cash back from the modification.

(b) If a loan fails to meet one or more of the conditions identified in paragraph

(a), the holder must submit the loan file to the Secretary for approval before entering into any loan modification agreement. The Secretary will grant such approval if the Secretary determines that the modification is in the best interests of the veteran and the Government after balancing the risks of non-approval versus approval despite the absence of one or more of the conditions identified in paragraph (a) of this section.

(c) This section does not create a right of a borrower to have a loan modified, but simply authorizes the loan holder to modify a loan in certain situations without the prior approval of the Secretary.

[FR Doc. 2011-2566 Filed 2-4-11; 8:45 am]

BILLING CODE 8320-01-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2010-0552; FRL-9262-7 ]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; 2002 Base Year Emissions Inventory, Reasonable Further Progress Plan, Contingency Measures, Reasonably Available Control Measures, and Transportation Conformity Budgets for the Philadelphia-Wilmington-Atlantic City 1997 8-Hour Moderate Ozone Nonattainment Area

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. The revision being approved contains a 2002 base year emissions inventory, a reasonable further progress (RFP) plan, RFP contingency measures demonstration, and reasonably available control measure (RACM) demonstration for the Pennsylvania portion of the Philadelphia-Wilmington-Atlantic City moderate 1997 8-hour ozone nonattainment area. This rulemaking applies only to the Pennsylvania portion of this multi-state nonattainment area—an area that also lies in part in New Jersey, Maryland, and Delaware. EPA is simultaneously approving transportation conformity motor vehicle emissions budgets (MVEBs) associated with this same SIP revision. EPA is approving this SIP revision because it

satisfies Clean Air Act (CAA) requirements for the 2002 emissions inventory, RFP, RACM, RFP contingency measures, and transportation conformity requirements—as defined by the CAA for areas classified as moderate nonattainment for the 1997 8-hour ozone national ambient air quality standard (NAAQS). EPA is approving the SIP revision in accordance with the requirements of the CAA and EPA regulations.

**DATES:** This final rule is effective on March 9, 2011.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2010-0552. All documents in the docket are listed in the <http://www.regulations.gov> Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Brian Rehn, (215) 814-2176, or by e-mail at [rehn.brian@epa.gov](mailto:rehn.brian@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Throughout this document, whenever “we,” “us,” or “our” is used, we mean EPA. On November 5, 2010 (75 FR 68251), EPA published a notice of proposed rulemaking (or proposed rulemaking) for the Commonwealth of Pennsylvania. The notice of proposed rulemaking proposed EPA’s approval of Pennsylvania’s 2002 base year emissions inventory, RFP plan, RFP contingency measures, RACM, and MVEBs for the Commonwealth’s portion of the Philadelphia-Wilmington-Atlantic City moderate 1997 8-hour ozone nonattainment area. EPA is approving the SIP revision because it satisfies the emissions inventory, RFP, RACM, RFP contingency measures, and transportation conformity requirements