

smoking cessation counseling, and the current relatively low participation levels in VA smoking cessation services, VA seeks to reduce barriers to the utilization of evidence-based smoking cessation counseling services. This interim final rule will advance that goal by eliminating the copayment requirement for smoking cessation counseling.

Administrative Procedure Act

Pursuant to 5 U.S.C. 553, we find that we have good cause to dispense with advance notice and comment on this rule because of the urgent need for its implementation and the unlikelihood, given the fact that it grants an exemption from the copayment requirement, of encountering opposition from the public. The practice of smoking can lead to extremely debilitating disease and, possibly, death. In the time required to subject this rule to traditional notice and comment procedures, individuals who smoke incur a risk of contracting or exacerbating disease, or of dying, because they might be deterred by reason of the copayment requirement from participating in the program. Accordingly, we find that these significant health concerns render delay for notice and comment procedures impracticable and contrary to the public interest. Further, because this rule is beneficial to the public and is unlikely to generate adverse comments, we find that prior notice and opportunity to comment are unnecessary. Because of the need to reduce barriers to participating in combating this public health emergency, because the rule grants an exemption or relieves a restriction, and for the above reasons, we also find that it is unnecessary to delay the effective date of the rule by 30 days.

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 provisions of this interim final rule would not directly affect any small entities. Only individuals could be directly affected. Accordingly, pursuant to 5 U.S.C. 605(b), this interim final rule is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

Executive Order 12866

This document has been reviewed by the Office of Management and Budget pursuant to Executive Order 12866.

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance numbers for the programs affected by this document are 64.005, 64.007, 64.008, 64.009, 64.010, 64.011, 64.012, 64.013, 64.014, 64.015, 64.016, 64.018, 64.019, 64.022, and 64.024.

Paperwork Reduction Act

This document does not contain new provisions constituting a collection of information under the Paperwork Reduction Act (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 developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any given year. This interim final rule will have no such effect on State, local, or tribal governments, or the private sector.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: December 17, 2004.

Anthony J. Principi,

Secretary of Veterans Affairs.

■ For the reasons set out in the preamble, 38 CFR Part 17 is amended as follows:

PART 17—MEDICAL

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 1721, unless otherwise noted.

■ 2. Section 17.108 is amended by:

- A. In paragraph (e) (11), removing “and” from the end of the paragraph.
- B. Redesignating paragraph (e) (12) as (e) (13).
- C. Adding new paragraph (e) (12).

The addition reads as follows:

§ 17.108 Copayments for inpatient hospital care and outpatient medical care.

* * * * *
(e) * * *

(12) Smoking cessation counseling (individual and group); and

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[FR Doc. 05–8729 Filed 4–29–05; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 36

RIN 2900–AL54

Loan Guaranty: Hybrid Adjustable Rate Mortgages

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is affirming as final an amendment to its loan guaranty regulations implementing section 303 of the Veterans Benefits Act of 2002. The amendment incorporates into the regulations a new authority for hybrid adjustable rate mortgages. This allows VA to guarantee loans with interest rates that remain fixed for a period of not less than the first three years of the loan, after which the rate can be adjusted annually.

DATES: Effective Date: This rule is effective on May 2, 2005.

FOR FURTHER INFORMATION CONTACT: Mr. Robert D. Finneran, Assistant Director for Policy and Valuation (262), Loan Guaranty Service, Veterans Benefits Administration, Department of Veterans Affairs, Washington, DC 20420, (202) 273–7368.

SUPPLEMENTARY INFORMATION: On October 9, 2003, VA published in the **Federal Register** (68 FR 58293) proposed regulations to implement sections 303 and 307 of Public Law 107–330. Under this proposal, 38 CFR 36.4311 would be amended to provide authority for hybrid adjustable rate mortgages. Public Law 107–330 authorized VA to guarantee loans with interest rates that remain fixed for a period of not less than the first three years of the loan, after which the rate can be adjusted annually. Under the previous authority, the first adjustment on VA-guaranteed adjustable rate mortgage loans had to occur no sooner than 12 months nor later than 18 months from the date of the borrower's first mortgage payment. Please refer to the October 9, 2003, **Federal Register** for a complete discussion of this proposal.

Section 307 of Pub. L. 107–330 also increased the fee payable to VA by a person assuming a VA guaranteed loan from .50 percent to 1.00 percent of the loan amount, for a period beginning

December 13, 2002, and ending September 30, 2003. Since this period has now expired, the proposed changes to 38 CFR 36.4312 are no longer necessary to reflect the increase.

The proposed rule provided for a 60-day comment period that ended November 10, 2003. We received three comments. The three commenters generally support the proposal for VA guaranteed hybrid ARM loans. Two believe the current ceiling on the annual adjustment cap of one percent is not in line with comparable conventional loans with a fixed-rate period of five or more years. They believe legislation should be enacted to remove the one percent annual adjustment cap limitation for loans with a fixed-rate period of five years or more. One requested that if such legislation is enacted VA implement the change as quickly as possible. This suggestion has been noted and will be considered in the event of future legislation.

The third commenter requested that VA clarify language in the proposal regarding the increase in the fee payable to VA by a person assuming a VA guaranteed loan. The increase was effective for the period beginning December 13, 2002, and ending September 30, 2003, and was being carried out under the authority of the statute. As the effective period has now expired, the proposed change to § 36.4312(e)(2) has been dropped from the final rule.

Based on the rationale set forth in the proposed rule we are affirming as a final rule the change made to § 36.4311 of title 38, Code of Federal Regulations.

Unfunded Mandates

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

Paperwork Reduction Act

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

Executive Order 12866

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this rule will 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 addition of hybrid adjustable rate mortgages will benefit lenders by providing an additional loan product for use in making VA-guaranteed 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.

The Catalog of Federal Domestic Assistance Program numbers applicable to this rule are 64.114 and 64.119.

List of Subjects in 38 CFR Part 36

Condominiums, Flood insurance, 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.

Approved: December 17, 2004.

Anthony J. Principi,
Secretary of Veterans Affairs.

■ For the reasons set out in the preamble 38 CFR part 36 is amended as set forth below.

PART 36—LOAN GUARANTY

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

Authority: 38 U.S.C. 501, 3701–3704, 3707, 3710–3714, 3719, 3720, 3729, 3762, unless otherwise noted.

■ 2. Section 36.4311 is amended by:

- a. Revising paragraph (d) introductory text;
- b. In paragraph (d)(2), revising the first sentence;
- c. Revising paragraph (d)(4) introductory text;
- d. Revising paragraph (d)(5) introductory text;
- e. Revising the authority citation at the end of the section.

The revisions read as follows:

§ 36.4311 Interest rates.

* * * * *

(d) Effective October 1, 2003, adjustable rate mortgage loans which comply with the requirements of this paragraph (d) are eligible for guaranty.

* * * * *

(2) * * * Interest rate adjustments must occur on an annual basis, except that the first adjustment may occur no sooner than 36 months from the date of

the borrower's first mortgage payment.

* * *

* * * * *

(4) *Initial rate and magnitude of changes.* The initial contract interest rate of an adjustable rate mortgage shall be agreed upon by the lender and the veteran. Annual adjustments in the interest rate shall correspond to annual changes in the interest rate index, subject to the following conditions and limitations:

* * * * *

(5) *Pre-loan disclosure.* The lender shall explain fully and in writing to the borrower, at the time of loan application, the nature of the obligation taken. The borrower shall certify in writing that he or she fully understands the obligation and a copy of the signed certification shall be placed in the loan folder and furnished to VA upon request.

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(Authority: 38 U.S.C. 3707A)

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R10–OAR–2004–WA–0001; FRL–7894–7]

Approval and Promulgation of Implementation Plans; Wallula, Washington PM₁₀ Nonattainment Area; Serious Area Plan for Attainment of the Annual and 24-Hour PM₁₀ Standards

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is taking final action to approve Washington's State Implementation Plan for the Wallula, Washington serious nonattainment area for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM₁₀). Wallula was initially classified as a moderate nonattainment area for PM₁₀ pursuant to the Clean Air Act Amendments of 1990. In 2001, it was reclassified as a serious nonattainment area for PM₁₀. As a result, Washington was required to submit a serious area plan for bringing the area into attainment. Washington submitted a serious area plan on November 30, 2004. We are approving this plan for Wallula, Washington because it meets the Clean Air Act requirements for PM₁₀ serious nonattainment areas.

DATES: Effective June 1, 2005.