

enue Code of 1954, relating to the time for filing declarations of estimated income tax by individuals, to reflect the admission of the State of Alaska into the Union, and to provide in the regulations under section 6081 of the Internal Revenue Code of 1954, relating to extensions of time for filing returns, a new rule with respect to the place for making application for extension of time for filing a return required to be filed with an Internal Revenue Service Center, the Income Tax Regulations (26 CFR (1954) Part 1) are hereby amended as follows:

PARAGRAPH 1. Section 1.6073-4 is amended by striking out in the last sentence of paragraph (b) thereof the words "the Territory of".

PAR. 2. Section 1.6081-1 is amended by striking out the first sentence of paragraph (b) (1) of such section and inserting in lieu thereof the following: "A taxpayer desiring an extension of the time for filing a return, statement, or other document shall submit an application therefor on or before the due date of such return, statement, or other document. Except in the case of an information return required to be filed with an Internal Revenue Service Center, the application for extension of the time for filing a return, statement, or other document shall be made to the internal revenue officer with whom such return, statement, or other document is required to be filed. In the case of an information return required to be filed with an Internal Revenue Service Center, the application for extension of the time for filing any such return shall be made to the internal revenue officer with whom the person required to file such return is required to file his income tax return or with whom he would be required to file an income tax return if such a return were required of him."

Because this Treasury decision makes only clarifying and procedural changes, it is hereby found that it is unnecessary to issue this Treasury decision with notice and public procedure thereon under section 4(a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4(c) of that Act.

(68A Stat. 917; 26 U.S.C. 7805)

[SEAL]

CHARLES I. FOX,  
Acting Commissioner of  
Internal Revenue.

Approved: April 1, 1959.

FRED C. SCRIBNER, JR.,  
Acting Secretary of the Treasury.

[F.R. Doc. 59-2869; Filed, Apr. 6, 1959;  
8:48 a.m.]

## Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

### Chapter I—Veterans Administration

#### PART 36—LOAN GUARANTY

##### Miscellaneous Amendments

1. Delete the headnotes "Part 36—Servicemen's Readjustment Act of 1944", "Subpart A—Title III; Loan Guaranty"

and "Subpart B—Title V; Readjustment Allowance" and add the headnote "Part 36—Loan Guaranty."

2. Immediately following the Centerhead "Guaranty or Insurance of Loans to Veterans", the note is revised to read as follows:

NOTE: Those requirements, conditions, or limitations which are expressly set forth in 38 U.S.C. Ch. 37 are not restated herein and must be taken into consideration in conjunction with §§ 36.4300 to 36.4375, inclusive.

3. Section 36.4300 is revised to read as follows:

#### § 36.4300 Applicability of §§ 36.4300 to 36.4375, inclusive.

(a) Sections 36.4300 to 36.4375, inclusive, shall be applicable to each loan entitled to an automatic guaranty, or otherwise guaranteed or insured, on or after the date of publication thereof in the FEDERAL REGISTER, and shall be applicable to such loans previously guaranteed or insured to the extent that no legal rights vested thereunder are impaired.

(b) Title 38, U.S.C. Ch. 37 is a continuation and restatement of the provisions of title III of the Servicemen's Readjustment Act of 1944, and may be considered an amendment to such title III. References in the regulations concerning guaranty or insurance of loans to veterans to the sections or chapters of Title 38, United States Code, shall, where applicable, be deemed to refer to the prior corresponding provisions of the law.

4. Section 36.4301 is revised to read as follows:

#### § 36.4301 Definitions.

Wherever used in 38 U.S.C. Ch. 37 or §§ 36.4300 to 36.4375, inclusive, unless the context otherwise requires, the terms defined in this section shall have the meaning herein stated, namely:

(a) "Administrator" means the Administrator of Veterans Affairs, or any employee of the Veterans Administration authorized by him to act in his stead.

(b) "Alterations" mean any structural changes or additions to existing realty or any modifications that increase the usefulness or efficiency of equipment or machinery used for farm or business purposes.

(c) "Combination loan" means any obligation the proceeds of which are expended for more than one purpose which are severally definable as "real estate loans" and "non-real estate loans."

(d) "Conducted by a veteran" (38 U.S.C. 1812) means personally performed, directed, or operated by him on a full- or part-time basis, with or without hired labor, not solely operated by a tenant or an employee who does not receive the direction and supervision of the veteran.

(e) "Cost" means the entire consideration paid or payable for or on account of the application of materials and labor to tangible property.

(f) "Date of first uncured default" means the due date of the earliest payment not fully satisfied by the proper application or available credits or deposits.

(g) "Default" means failure of a borrower to comply with the terms of a loan agreement.

(h) "Designated appraiser" means a person requested by the Administrator to render an estimate of the reasonable value of a property, or of a specified type of property, within a stated area for the purpose of justifying the extension of credit to an eligible veteran for any of the purposes stated in 38 U.S.C. Ch. 37. An appraiser on a fee basis is not an agent of the Administrator.

(i) "Dwelling" means any building designed primarily for use as a home consisting of not more than four family units plus an added unit for each veteran if more than one eligible veteran participates in the ownership thereof.

(j) "Economic readjustment" means rearrangement of an eligible veteran's indebtedness in a manner calculated to enable him to meet his obligations and thereby avoid imminent loss of the property which secures the delinquent obligation.

(k) "Engaging in business" or "pursuing a gainful occupation" (38 U.S.C. 1813) means active participation in the operation, management, and supervision of an enterprise or practice of a profession or trade, on a full- or part-time basis.

(l) "Farm" means any real estate suitable or adaptable for farming operations.

(m) "Farming operations" means activities justifying capital expenditures which involve production of crops, livestock, or other agricultural commodities and the marketing thereof and their products in amounts in excess of the subsistence needs of the operator.

(n) "Full disbursement" means payment by a lender of the entire proceeds of a loan for the purposes described in the report of the lender in respect of such loan to the Administrator either (1) by payment to those contracting with the borrower for such purposes, or (2) by payment to the borrower, or (3) by transfer to an account against which he can draw at will, or (4) by transfer to an escrow account, or (5) by transfer to an earmarked account if (i) the amount thereof is not in excess of 10 percent of the loan, or (ii) the loan is one submitted by a lender of the class specified in 38 U.S.C. 1802(d) or 1815(a).

(o) "Guaranty" means the obligation of the United States, assumed by virtue of 38 U.S.C. Chapter 37, to repay a specified percentage of a loan upon the default of the primary debtor.

(p) "Holder" means the lender or any subsequent assignee or transferee of the guaranteed or insured obligation.

(q) "Home" means place of residence.

(r) "Improvements" means any alteration that improves the property for the purpose for which it is occupied, operated, or employed.

(s) "Indebtedness" means the unpaid principal and interest plus any other amounts allowable under the terms of a loan including those authorized by statute and consistent with §§ 36.4300 to 36.4375, inclusive, which have been paid and debited to the loan account.

(t) "Insurance" means the obligation assumed by the United States to indem-



nify a lender to the extent specified in §§ 36.4300 to 36.4375, inclusive, for any loss incurred upon any loan insured under 38 U.S.C. 1815.

(u) "Insurance account" means the record of the amount available to a lender or purchaser for losses incurred on loans insured under 38 U.S.C. 1815.

(v) "Lender" means the payee or assignee or transferee of an obligation at the time it is guaranteed or insured.

(w) "Lien" means any interest in, or power over, real or personal property, reserved by the vendor, or created by the parties or by operation of law, chiefly or solely for the purpose of assuring the payment of the purchase price, or a debt, and irrespective of the identity of the party in whom title to the property is vested, including but not limited to mortgages, deeds with a defeasance therein or collaterally, deeds of trust, security deeds, mechanics' liens, lease-purchase contracts, conditional sales contracts, consignments.

(x) "Non-real estate loan" means any obligation incurred for the purchase, alteration, improvement, or repair of personal property; or any loan which is not a real estate loan.

(y) "Purchase price" means the entire legal consideration paid or payable upon or on account of the sale of property, exclusive of acquisition costs, or for the cost of materials and labor to be applied thereto.

(z) "Real estate loan" means any obligation incurred for the purchase of real property or a leasehold estate as limited in §§ 36.4300 to 36.4375, inclusive, or for the construction of fixtures or appurtenances thereon or for alterations, improvements, or repairs thereon required by §§ 36.4300 to 36.4375, inclusive, to be secured by a lien on such property or is so secured.

(aa) "Reasonable value" means that figure which represents the amount a reputable and qualified appraiser, unaffected by personal interest, bias, or prejudice, would recommend to a prospective purchaser as a proper price or cost in the light of prevailing conditions.

(bb) "Repairs" mean any alteration of existing realty, machinery, or equipment which is necessary or advisable for protective, safety, or restorative purposes.

(cc) "Residential property" means (1) any improved real property or leasehold estate therein as limited by §§ 36.4300 to 36.4375, inclusive, the primary use of which is for occupation as a home, consisting of not more than four family units, plus an added unit for each eligible veteran if more than one participates in the ownership thereof; or (2) any land to be purchased out of the proceeds of a loan for the construction of a dwelling, and on which such dwelling is to be erected.

(dd) "Repossession-repossession" means recovery or acquisition of such physical control of property (pursuant to the provisions of the security instrument or as otherwise provided by law) as to make further legal or other action unnecessary in order to obtain actual possession of the property or to dispose of the same by sale or otherwise.

(ee) "Net loss" (insured loans) means the indebtedness, plus any other charges authorized under § 36.4313, remaining unsatisfied after the liquidation of all available security and recourse to all intangible rights of the holder against those obligated on the debt.

(ff) "Registered mail". The term "registered mail" wherever used in the regulations concerning guaranty or insurance of loans to veterans shall include certified mail.

5. In § 36.4302, paragraphs (a) (1), (2) and (3), (b), (c) and (h) are amended to read as follows:

#### § 36.4302 Computation of guaranties or insurance credits.

(a) For the purpose of computing guaranty in respect to a loan to a veteran, the following maxima cannot be exceeded:

(1) Loans under 38 U.S.C. 1810: Sixty percent of the original principal amount, or \$7,500, whichever is less.

(2) Real estate loans except loans under 38 U.S.C. 1810: Fifty percent of the original principal amount, or \$4,000, whichever is less.

(3) Non-real estate loans except loans under 38 U.S.C. 1810: Fifty percent of the original principal amount, or \$2,000, whichever is less.

(b) An amount equal to 15 percent of the original principal amount of each insured loan shall be credited to the insurance account of the lender and shall be charged against the guaranty entitlement of the borrower: *Provided*, That no loan may be insured unless the borrower has sufficient entitlement remaining to permit such credit, and that the aggregate use of entitlement consequent on such insurance credit shall not exceed the maxima prescribed in 38 U.S.C. 1803 (b) for other than loans under 38 U.S.C. 1810 and 1811.

(c) Subject to the provisions of paragraph (g) of § 36.4303, the following formula shall govern the ascertainment of the amount of the guaranty or insurance entitlement which remains available to an eligible veteran after prior use of entitlement: Add to the amount of such entitlement previously used for realty twice the amount previously used for nonrealty purposes. Subtract this sum from \$4,000. The sum remaining is the amount available for the guaranty or insurance of a real estate loan other than a loan under 38 U.S.C. 1810 and one-half of such sum is available for a non-real estate loan. For the purpose of ascertaining the amount of guaranty entitlement which remains available for a loan under 38 U.S.C. 1810 after prior use of entitlement, add to the amount of such entitlement previously used for realty twice the amount previously used for nonrealty purposes. Subtract this sum from \$7,500. The sum remaining is the amount of entitlement available for loans under 38 U.S.C. 1810.

(h) Notwithstanding the provisions of paragraph (g) of this section, if real or personal property acquired or improved with the proceeds of a guaranteed or insured loan be thereafter:

(1) Taken (by condemnation or otherwise) by the United States or any State or local government agency for public use; or

(2) Destroyed or damaged by fire or other natural hazard to the extent that occupancy, use, or restoration is impractical, and which destruction or damage is not resultant from an act or omission willfully designed by the veteran to bring about such destruction or damage; or

(3) Disposed of because of other compelling reasons devoid of fault on the part of the veteran;

the Administrator in the exercise of discretion in any such case may exclude the entitlement used in respect to such loan, and the entitlement so excluded shall be disregarded in determining the subsequent use of entitlement by the veteran except for the calculation of the gratuity payable on a new loan. This paragraph shall be construed to authorize the exclusion of guaranty or insurance entitlement used on a home loan obtained by a veteran, and with respect to which the real property which served as security for the loan was disposed of because the veteran, while in the military service, was transferred by the military department with which he was serving. Exclusion of entitlement used in connection with a guaranteed or insured loan, shall not be authorized so long as the Administrator remains liable thereon as a guarantor or insurer.

6. In § 36.4303, paragraphs (a), (b), (c), (d) (4), and (f) are amended to read as follows:

#### § 36.4303 Reporting requirements.

(a) With respect to loans automatically guaranteed under 38 U.S.C. 1803 (a) (1), evidence of the guaranty will be issuable to a lender of a class described under 38 U.S.C. 1803 (d) if the loan is reported to the Administrator within 30 days following full disbursement, and upon the certification of the lender that:

(1) No default exists thereunder which has continued for more than 30 days;

(2) Any construction, repairs, alterations, or improvements effected subsequent to the appraisal of reasonable value, and paid for out of the proceeds of the loan, which have not been inspected and approved upon completion by a compliance inspector designated by the Administrator have been completed properly in full accordance with the plans and specifications upon which the original appraisal was based, and any deviations or changes of identity in said property having been approved as required in § 36.4304 concerning guaranty or insurance of loans to veterans;

(3) The loan conforms otherwise with the applicable provisions of 38 U.S.C. Ch. 37 and of the regulations concerning guaranty or insurance of loans to veterans;

*Provided, however*, That if the report shows that any part of the proceeds of a loan is held in escrow or earmarked as provided in the definitions of "full disbursement" contained in the regulations concerning guaranty or insurance of loans to veterans, approval of the loan



for guaranty or insurance shall be evidenced by a certificate of commitment.

(b) Loans made pursuant to 38 U.S.C. 1815 although not entitled to automatic insurance thereunder may, when made by a lender of a class described in 38 U.S.C. 1802(d), be reported for issuance of an insurance credit, or a certificate of commitment as provided in paragraph (a) of this section.

(c) Each loan proposed to be made to an eligible veteran by a lender not within a class described in 38 U.S.C. 1802(d) shall be submitted to the Administrator for approval prior to closing. Lenders described in 38 U.S.C. 1802(d) shall have the optional right to submit any loan for such prior approval. The Administrator upon determining any loan so submitted to be eligible for a guaranty, or for insurance, will issue a certificate of commitment with respect thereto.

(d) \* \* \*

(4) That the loan conforms otherwise with the applicable provisions of 38 U.S.C. Ch. 37 and the regulations concerning guaranty or insurance of loans to veterans.

(f) Evidence of a guaranty will be issued by the Administrator by appropriate endorsement on the note or other instrument evidencing the obligation, or by a separate certificate at the option of the lender. Notice of credit to an insurance account will be given to the lender. Unused certificates of eligibility issued prior to March 1, 1946, are void. In the event loans are reported to the Administrator for guaranty or insurance in respect to which entitlement of the veteran shall not have been reserved, any unused or unreserved entitlement of a veteran shall be applied to the loans in the order they are reported to, or made by, the Administrator. Entitlement reserved by the Administrator may not be so applied or otherwise used until released by the lender for whose benefit the reservation is outstanding. No certificate of commitment shall be issued and no loan shall be guaranteed or insured unless the lender, the veteran, and the loan are shown to be eligible; nor shall guaranty or insurance evidence be issued on any loan for the purchase or construction of residential property, or for the alteration, improvement or repair thereof, if the application of the veteran to a lender for such loan was made on or after September 15, 1956, unless the Administrator determines that there has been compliance by the veteran with the certification requirements of 38 U.S.C. 1804(c).

7. In § 36.4305, paragraph (d) is amended to read as follows:

§ 36.4305 Partial disbursement.

(d) There has been full compliance with the provisions of 38 U.S.C. Ch. 37 and of the applicable regulations up to the time of the last disbursement.

8. In § 36.4306, paragraph (a) (4) is amended to read as follows:

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§ 36.4306 Refunding of outstanding indebtedness.

(a) \* \* \*

(4) Such obligation is eligible under 38 U.S.C. 1814, or

9. § 36.4307, paragraphs (a) and (c) (1) are amended to read as follows:

§ 36.4307 Joint loans.

(a) Except as provided in paragraph (b) of this section, the prior approval of the Administrator is required in respect to any loan to be made to two or more borrowers who become jointly and severally liable, or jointly liable therefor, and who will acquire an undivided interest in the property to be purchased or who will otherwise share in the proceeds of the loan, or in respect to any loan to be made to an eligible veteran whose interest in the property owned, or to be acquired with the loan proceeds, is an undivided interest only, unless such interest is at least a 50 percent interest in a partnership or more than a 50 percent interest in a corporation (§ 36.4344). The amount of the guaranty or insurance credit shall be computed in such cases only on that portion of the loan allocable to the eligible veteran which, taking into consideration all relevant factors, represents the proper contribution of the veteran to the transaction. Such loans shall be secured to the extent required by 38 U.S.C. Ch. 37 and the regulations concerning guaranty or insurance of loans to veterans.

(c) \* \* \*

(1) Prepayments made expressly for credit to that portion of the indebtedness allocable to the veteran (including the gratuity paid pursuant to former provisions of law), shall be applied to such portion of the indebtedness. All other payments shall be applied ratably to those portions of the loan allocable respectively to the veteran and to the other debtors.

10. In § 36.4309, paragraph (d) is amended to read as follows:

§ 36.4309 Amortization.

(d) Subject to paragraph (a) of this section, any amounts which under the terms of a loan do not become due and payable on or before the last maturity date permissible for loans of its class under the limitations contained in 38 U.S.C. Ch. 37 shall automatically fall due on such date. (See § 36.4334.)

11. In § 36.4311, paragraphs (a) and (c) are amended to read as follows:

§ 36.4311 Interest rates.

(a) Excepting non-real estate loans insured under 38 U.S.C. 1815, the interest rate on any loan guaranteed or insured wholly or in part may not exceed 4½ percent per annum on the unpaid principal balance: *Provided*, That if a certificate of commitment was issued by the Administrator prior to April 1, 1958, the interest rate chargeable on the loan to which the certificate relates may not exceed 4½ percent per annum.

(c) Interest in excess of the applicable rate specified in 38 U.S.C. Ch. 37 shall not be payable on any advance, or in the event of any delinquency or default: *Provided*, That a late charge not in excess of an amount equal to 4 percent on any installment paid more than 15 days after due date shall not be considered a violation of this limitation.

12. In § 36.4312, paragraph (b) and the headnotes of Parts I, II, III and IV of paragraph (d) are amended to read as follows:

§ 36.4312 Allowable charges and fees.

(b) Brokerage or other charges shall not be made against the veteran for obtaining any guaranty or insurance under 38 U.S.C. Ch. 37, nor shall any premiums for insurance on the life of the borrower be paid out of the proceeds of a loan, except that there may be paid out of the proceeds of a nonrealty loan for farm or business purposes premiums on insurance not in excess of the amount of the loan and for a period not in excess of 2 years, or the term of the loan, whichever is less.

(d) \* \* \*

PART I—LOANS FOR THE PURCHASE, CONSTRUCTION, REPAIR, ALTERATION, OR IMPROVEMENT OF RESIDENTIAL PROPERTY (38 U.S.C. 1810)

PART II—LOANS FOR THE PURCHASE, CONSTRUCTION, REPAIR, ALTERATION, OR IMPROVEMENT OF FARM OR BUSINESS REALTY (38 U.S.C. 1812 AND 1813)

PART III—NON-REAL ESTATE LOANS FOR FARM OR BUSINESS PURPOSES (38 U.S.C. 1812 AND 1813)

PART IV—LOANS TO REFINANCE DELINQUENT INDEBTEDNESS (38 U.S.C. 1814)

13. In § 36.4314, paragraph (c) is amended to read as follows:

§ 36.4314 Extensions and reamortizations.

(c) In the event an additional loan is proposed to be made pursuant to § 36.4351 for the repair, alteration, or improvement of real property on which there is an existing loan guaranteed or insured under 38 U.S.C. Ch. 37, the terms of repayment of the prior loan may, by written agreement between the holder and the debtor, be recast to combine the schedule of repayments on the two loans, provided the entire indebtedness is repayable within the permissible maximum maturity of the original loan.

14. In § 36.4315, paragraph (a) is amended to read as follows:

§ 36.4315 Reporting of defaults.

The holder of any guaranteed or insured loan shall give notice to the Administrator within 45 days after any debtor:

(a) Is in default by reason of nonpayment of any installment for a period of 60 days from the date of first uncured default (see § 36.4301(f)); or



15. In § 36.4320, paragraphs (h) (5) and (j) are amended to read as follows:

**§ 36.4320 Sale of security.**

(h) The conveyance or transfer of any property to the Administrator pursuant to paragraph (a), (b), or (c) of this section shall be subject to the following provisions:

(5) Each conveyance or transfer of real property to the Administrator pursuant to this section shall be acceptable if the holder thereby covenants or warrants against the acts of himself and those claiming under him (e.g., by special warranty deed) and if it vests in the Administrator or will entitle him to such title as is or would be acceptable to prudent lending institutions, informed buyers, title companies, and attorneys, generally, in the community in which the property is situated: *Provided*, That, as to home loans guaranteed or insured subsequent to February 15, 1950, any title which is subject to restrictions against sale or occupancy on the ground of race, color, or creed, which have been created and filed of record subsequent to that date shall not be acceptable under this section. Any title so acceptable will not be unacceptable to the Administrator by reason of any of the limitations on the quantum or quality of the property or title stated in § 36.4350(b): *Provided*, That (i) at the time of the conveyance or transfer to the Administrator there has been no breach of any conditions affording a right to the exercise of any reverter, and (ii) with respect to any such limitations which came into existence subsequent to the making of the loan, full compliance was had with the requirements of § 36.4324. The acceptability of a conveyance or transfer pursuant to the requirements of this paragraph will be established by delivery to the Administrator of any of the following evidences of title issued by an institution or person satisfactory to the Administrator, in form satisfactory to him, showing that title to the property of the quality specified in this paragraph is or will be vested in the Administrator:

(a) A title policy insuring the Administrator in an amount approximately equal to the consideration for the property, or a commitment therefor; or

(b) A certificate of record title; or

(c) An abstract of title accompanied by a legal opinion as to the quality of such title of record; or

(d) A Torrens or similar title certificate; or

(e) Such other evidence of title as the Administrator may approve.

In lieu of such title evidence, the Administrator will accept a conveyance or transfer with general warranty with respect to the title from a holder described in 38 U.S.C. 1802(d) or from a holder of financial responsibility satisfactory to the Administrator. In any case where the holder does not deliver evidence of title of the character specified in this subparagraph, the holder to aid the Administrator in his determination of acceptability of title shall without ex-

pense to the Administrator furnish such evidence of title, including survey, if any, as may have been obtained by the holder incident to the making of the loan or attendant to the foreclosure.

(j) Except as provided in paragraph (h) (6) of this section, the provisions of this section shall not be in derogation of any rights which the Administrator may have under § 36.4325. The Chief Benefits Director, or the Director, Loan Guaranty Service, may authorize any deviation from the provisions of this section, within the limitations prescribed in 38 U.S.C. chapter 37, which may be necessary or desirable to accomplish the objectives of this section if such deviation is made necessary by reason of any laws or practice in any State or Territory or the District of Columbia: *Provided*, That no such deviation shall impair the rights of any holder not consenting thereto with respect to loans made or approved prior to the date the holder is notified of such action.

16. In § 36.4323, paragraphs (e) and (f) are amended to read as follows:

**§ 36.4323 Subrogation and indemnity.**

(e) Any amounts paid by the 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 United States by such veteran.

(f) Whenever any veteran disposes of residential property securing a guaranteed or insured loan obtained by him under 38 U.S.C. Ch. 37, the Administrator, upon application made by such veteran, shall issue to the veteran a release relieving him of all further liability to the Administrator on account of such loan (including liability for any loss resulting from any default of the transferee or any subsequent purchaser of such property) if the Administrator has determined, after such investigation as he may deem appropriate, that there has been compliance with the conditions prescribed in 38 U.S.C. 1817. The assumption of full liability for repayment of the loan by the transferee of the property must be evidenced by the transferee's execution of an agreement in writing in such form as the Administrator may require. Release of the veteran from liability to the Administrator will not impair or otherwise affect the Administrator's guaranty or insurance liability on the loan, or the liability of the veteran to the holder. Any release of liability granted to a veteran by the Administrator shall inure to the spouse of such veteran. The release of the veteran from liability to the Administrator will constitute the Administrator's prior approval to a release of the veteran from liability on the loan by the holder thereof.

17. In § 36.4324, paragraph (f) is amended to read as follows:

**§ 36.4324 Release of security.**

(f) The release of the personal liability of any obligor on a guaranteed or insured obligation resultant from 38

U.S.C. Ch. 37 or omission of any holder without the prior approval of the Administrator shall release the obligation of the Administrator as guarantor or insurer, except when such act or omission consists of (1) failure to establish the debt as a valid claim against the assets of the estate of any deceased obligor, provided no lien for the guaranteed or insured debt is thereby impaired or destroyed; or (2) an election and appropriate prosecution of legally available effective remedies with respect to the repossession or the liquidation of the security in any case, irrespective of the identity or the survival of the original or of any subsequent debtor, if holder shall have given such notice as required by § 36.4317 and if, after receiving such notice, the Administrator shall have failed to notify the holder within 15 days to proceed in such manner as to effectively preserve the personal liability of the parties liable, or such of them as the Administrator indicates in such notice to the holder; or (3) the release of an obligor, or obligors, from liability on an obligation secured by a lien on property, which release is an incident of and contemporaneous with the sale of such property to an eligible veteran who assumed such obligation, which assumed obligation is guaranteed on his account pursuant to the act; or (4) the release of an obligor or obligors as provided in § 36.4314(d).

18. In § 36.4325, that portion of paragraph (a) preceding subparagraph (1) and paragraph (b) are amended to read as follows:

**§ 36.4325 Partial or total loss of guaranty or insurance.**

(a) Subject to the incontestable provisions of 38 U.S.C. 1821 as to loans guaranteed or insured on or subsequent to July 1, 1948, there shall be no liability on account of a guaranty or insurance, or any certificate or other evidence thereof, with respect to a transaction in which a signature to the note, the mortgage, or any other loan papers, or the application for guaranty or insurance is a forgery; or in which the certificate of discharge or the certificate of eligibility is counterfeited, or falsified, or is not issued by the Government.

(b) In taking security required by 38 U.S.C. Ch. 37 and the regulations concerning guaranty or insurance of loans to veterans, a holder shall obtain the required lien on property the title to which is such as to be acceptable to prudent lending institutions, informed buyers, title companies, and attorneys, generally, in the community in which the property is situated: *Provided*, That a title will not be unacceptable by reason of any of the limitations on the quantum or quality of the property or title stated in § 36.4350(b) and if such holder fails in this respect or fails to comply with 38 U.S.C. Ch. 37 and the regulations concerning guaranty or insurance of loans to veterans with respect to:

(1) Obtaining and retaining a lien of the dignity prescribed on all property upon which a lien is required by 38 U.S.C. Ch. 37 or the regulations concerning



guaranty or insurance of loans to veterans,

(2) Inclusion of power to substitute trustees (§ 36.4327),

(3) The procurement and maintenance of insurance coverage (§ 36.4326),

(4) Advice to Administrator as to default (§ 36.4315),

(5) Notice of intention to begin action (§ 36.4317),

(6) Notice to the Administrator in any suit or action, or notice of sale (§ 36.4319),

(7) The release, conveyance, substitution, or exchange of security (§ 36.4324),

(8) Lack of legal capacity of a party to the transaction incident to which the guaranty or the insurance is granted (§ 36.4328),

(9) Failure of the lender to see that any escrowed or earmarked account is expended in accordance with the agreement,

(10) The taking into consideration of limitations upon the quantum or quality of the estate or property (§ 36.4350(b)),

(11) Any other requirement of 38 U.S.C. Ch. 37 or the regulations concerning guaranty or insurance of loans to veterans which does not by the terms of said chapter or the regulations concerning guaranty or insurance of loans to veterans result in relieving the Administrator of all liability with respect to the loan,

no claim on the guaranty or insurance shall be paid on account of the loan with respect to which such failure occurred, or in respect to which an unwilling misrepresentation occurred, until the amount by which the ultimate liability of the Administrator would thereby be increased has been ascertained. The burden of proof shall be upon the holder to establish that no increase of ultimate liability is attributable to such failure or misrepresentation. The amount of increased liability of the Administrator shall be offset by deduction from the amount of the guaranty or insurance otherwise payable, or if consequent upon loss of security shall be offset by crediting to the indebtedness the amount of the impairment as proceeds of the sale of security in the final accounting to the Administrator. To the extent the loss resultant from the failure or misrepresentation prejudices the Administrator's right of subrogation acceptance by the holder of the guaranty or insurance payment shall subordinate the holder's right to those of the Administrator.

19. Section 36.4329 is revised to read as follows:

#### § 36.4329 Geographical limits.

Any real property purchased, constructed, altered, improved, or repaired with the proceeds of a guaranteed or insured loan, and the principal place of business of any enterprise in connection with which a loan is obtainable under 38 U.S.C. 1813 or 1814, shall be situated within the United States, which for purposes of 38 U.S.C. Ch. 37 is here defined as the several States, territories and possessions, the District of Columbia, and the Commonwealth of Puerto Rico.

20. In § 36.4331, paragraphs (a) and (c) are amended to read as follows:

#### § 36.4331 Disqualification of lenders.

(a) A lender or holder may be suspended from obtaining guaranty or insurance of loans or from the right to the guaranty or insurance in respect to any loan purchased after the date of its suspension, except as provided in paragraph (h) of this section, whenever any of the employees designated in § 36.4342(b) finds that the lender or holder (hereinafter referred to as lender) has failed to maintain adequate loan accounting records, or to demonstrate proper ability to service loans adequately, or to exercise proper credit judgment, or has willfully or negligently engaged in practices otherwise detrimental to the interests of veterans or of the Government. Suspension of a lender shall be effected only when specifically authorized by the Administrator, the Deputy Administrator, or by the Chief Benefits Director, Department of Veterans Benefits. In any case in which suspension has been so authorized and an indictment has been secured or a criminal information has been filed against the lender in connection with a transaction involving 38 U.S.C. Ch. 37, an immediate suspension may be effected. In any other case in which the Manager of a regional office has obtained Central Office authorization to initiate suspension proceedings, prior written notice of intention to apply the suspension sanction shall be furnished to the lender concerned.

(e) Where suspension is effected, the lender will be advised in writing of the effective date of the suspension and, unless such was previously furnished, will be given written notice of the charges against the lender, and the specifications on which such charges are based. Any lender who is suspended shall have the right to apply to the Chief Benefits Director for termination or modification of the suspension and for a formal hearing at which opportunity shall be afforded to show why suspension should be modified or terminated. The Chief Benefits Director may postpone the holding of a hearing for a reasonable period in any case in which the Department of Justice or United States Attorney advises or requests postponement pending the trial of a criminal or civil case or the institution of criminal or civil proceedings against the lender. In the absence of such request, the Chief Benefits Director, as soon as he may deem it feasible to do so, shall designate such time and place as he may deem appropriate for such hearing, shall notify the lender thereof, and shall appoint not less than three persons, who shall constitute the board, to conduct the hearing. The Chief Attorney or his designee shall represent the Veterans Administration. Authority is hereby delegated to the chairman of the board designated to conduct such hearing to administer oaths to witnesses. The Manager may issue subpoenas for witnesses or records as provided in 38 U.S.C. 3311. The lender shall have the right to appear at such hearing in person or by

attorney, or both, and to introduce evidence showing why such suspension should be modified or terminated. If the Veterans Administration has knowledge of a pending or contemplated civil or criminal action by the United States against the lender, arising from the facts on which the suspension of the lender was based, the Chief Attorney of the regional office concerned will inform the responsible United States Attorney of the date and place of hearing and keep him advised of all developments.

21. Section 36.4334 is revised to read as follows:

#### § 36.4334 Incorporation by reference.

Regulations issued under 38 U.S.C. Ch. 37 and in effect on the date of any loan which is submitted and accepted or approved for a guaranty or for insurance thereunder, shall govern the rights, duties, and liabilities of the parties to such loan and any provisions of the loan instruments inconsistent with such regulations are hereby amended and supplemented to conform thereto.

22. In § 36.4340, paragraph (a) is amended as follows:

#### § 36.4340 Restriction on designated fee appraisers.

(a) A designated fee appraiser shall not make an appraisal, excepting of alterations, improvements, or repairs to real property entailing a cost of not more than \$2,500, if such appraiser is an officer, director, trustee, employer, or employee of the lender, contractor, or vendor: *Provided*, That appraisals of non-real estate loans may be made by an officer, director, trustee, employer, or employee of a lender of a class specified in 38 U.S.C. 1802(d) or 1815.

23. In § 36.4342, paragraphs (a) and (c) are amended to read as follows:

#### § 36.4342 Delegation of authority.

(a) Except as hereinafter provided, each employee of the Veterans Administration heretofore or hereafter appointed to, or lawfully filling, any position designated in paragraph (b) of this section is hereby delegated authority, within the limitations and conditions prescribed by law, to exercise the powers and functions of the Administrator with respect to the guaranty or insurance of loans and the rights and liabilities arising therefrom, including but not limited to the adjudication and allowance, disallowance, and compromise of claims; the collection or compromise of amounts due, in money or other property; the extension, rearrangement, or acquisition of loans; the management and disposition of secured and unsecured notes and other property; and those functions expressly or impliedly embraced within paragraphs (2) to (6), inclusive, of 38 U.S.C. 1820(a). Incidental to the exercise and performance of the powers and functions hereby delegated, each such employee is authorized to execute and deliver (with or without acknowledgment) for, and on behalf of, the Administrator, evidence of guaranty or of insurance credits and such



certificates, forms, conveyances, and other instruments as may be appropriate in connection with the acquisition, ownership, management, sale, transfer, assignment, encumbrance, rental, or other disposition of real or personal property, or, of any right, title, or interest therein, including, but not limited to, contracts of sale, installment contracts, deeds, leases, bills of sale, assignments, and releases; and to approve disbursements to be made for any purpose authorized by 38 U.S.C. Ch. 37.

(c) Nothing in this section shall be construed (1) to authorize any such employee to exercise the authority vested in the Administrator under 38 U.S.C. 210(c) or 1815(b), or to sue, or enter appearance for and on behalf of the Administrator, or confess judgment against him in any court without his prior authorization; or (2) to include the authority to exercise those powers delegated to the Chief Benefits Director, or the Director, Loan Guaranty Service, under §§ 36.4320(j), 36.4335, 36.4343, or 36.4344: *Provided*, That, anything in the regulations concerning guaranty or insurance of loans to veterans to the contrary notwithstanding, any evidence of guaranty or insurance issued on or after July 1, 1948, by any of the employees designated in paragraph (b) of this section or by any employee designated an authorized agent or a loan guaranty agent shall be deemed to have been issued by the Administrator, subject to the defenses reserved in 38 U.S.C. 1821.

24. In § 36.4343, paragraph (a) is amended as follows:

§ 36.4343 Loans which may not be processed automatically.

(a) Any loan, which is (1) related to an enterprise in which more than 10 individuals will participate; or (2) to be made for the purchase or construction of residential units in any housing development, cooperative or otherwise, the title to which development or to the individual units therein is not to be held directly by the veteran-participants, or which contemplates the ownership or maintenance of more than 3 units or of their major appurtenances in common; or (3) to be made for business or farm purposes in the amount of \$25,000 or more, to be eligible for guaranty or insurance shall require prior approval of the Chief Benefits Director, or the Director, Loan Guaranty Service, who may issue such approval upon such conditions and limitations as he may deem appropriate, not inconsistent with the provisions of 38 U.S.C. Ch. 37 and the regulations concerning guaranty or insurance of loans to veterans.

25. Sections 36.4346, 36.4347 and 36.4348 are revised to read as follows:

§ 36.4346 Purchase, construction, or improvement of a farmhouse.

No loan for constructing or improving a farmhouse shall be eligible for guaranty or insurance pursuant to 38 U.S.C. 1812(c) unless approved by the Administrator prior to disbursement.

§ 36.4347 Minimum property and construction requirements.

No loan for the purchase or construction of residential property shall be eligible for guaranty or insurance unless such property complies or conforms with those standards of planning, construction, and general acceptability that may be applicable thereto and prescribed by the Administrator pursuant to 38 U.S.C. 1804(a).

§ 36.4348 Purchase, construction, alteration, improvement, or repair loans made under 38 U.S.C. 1810.

Loans for the purchase, construction, alteration, improvement, or repair of residential property (including a farm residence) shall be ineligible for guaranty or insurance under 38 U.S.C. 1810 if made in combination with a loan under 38 U.S.C. 1812 or 1813. A loan to refinance delinquent indebtedness pursuant to 38 U.S.C. 1814 may not be guaranteed under 38 U.S.C. 1810.

26. In § 36.4350, subparagraph (2) of paragraph (a) and that portion of paragraph (b) following subparagraph (7) are amended to read as follows:

§ 36.4350 Estate of veteran in real property.

(a) \* \* \*

(2) A leasehold estate running or renewable at the option of the lessee for a period of not less than 14 years from the maturity of the loan, or to any earlier date at which the fee simple title will vest in the lessee, which is assignable or transferable, if the same be subjected to the lien; however, a leasehold estate which is not freely assignable and transferable will be considered an acceptable estate if it is determined by the Chief Benefits Director, or the Director, Loan Guaranty Service, (i) that such type of leasehold is customary in the area where the property is located, (ii) that a veteran or veterans will be prejudiced if the requirement for free assignability is adhered to and, (iii) that the assignability and other provisions applicable to the leasehold estate are sufficient to protect the interests of the veteran and the Government and are otherwise acceptable; or

(b) \* \* \*

*Provided*, That the limitations on the quantum or quality of the estate or property that are indicated in this paragraph, insofar as they may materially affect the value of the property for the purpose for which it is used, are taken into account in the appraisal of reasonable value required by 38 U.S.C. Ch. 37: *And provided further*, That, as to home loans guaranteed or insured subsequent to February 15, 1950, the title to any such property or estate shall not be acceptable under § 36.4320(h) if it is subject to restrictions against sale or occupancy on the ground of race, color, or creed, which have been created and filed of record subsequent to that date.

27. In § 36.4351, paragraph (c) is amended to read as follows:

§ 36.4351 Loans, first, second, or unsecured.

(c) Neither paragraph (a) nor (b) of this section shall be applicable to any loan to be guaranteed or insured pursuant to 38 U.S.C. 1812(c) for the construction or improvement of a "farmhouse" unless otherwise stated incident to the prior approval required by § 36.4346.

28. Section 36.4353 is revised to read as follows:

§ 36.4353 Combination residential and business property.

If otherwise eligible, a loan for the purchase or construction of a combination of residential property and business property which the veteran proposes to occupy in part as a home will be eligible under 38 U.S.C. 1810 if the property is primarily for residential purposes and no more than 1 business unit is included in the property. A loan for the purchase or construction of residential property containing more than 4 separate family units plus an added unit for each veteran participating in the ownership thereof, or more than 1 business unit, must be classed as a business loan and satisfy the requirements of eligibility prescribed under 38 U.S.C. 1813.

29. In § 36.4355, paragraph (a) (2) is amended to read as follows:

§ 36.4355 Supplemental loans.

(a) \* \* \*

(2) The loan will be made by a lender not of a class specified in 38 U.S.C. 1802(d); or

§ 36.4360 [Revocation]

30. Section 36.4360 is revoked.

31. Section 36.4362 is revised to read as follows:

§ 36.4362 Requirement of construction warranty.

Each certificate of reasonable value issued by the Administrator relating to a proposed or newly constructed dwelling unit shall be subject to the express condition that the builder, seller, or the real party in interest in the transaction shall deliver to the veteran constructing or purchasing such dwelling with the aid of a guaranteed or insured loan a warranty, in the form prescribed by the Administrator, that the property has been completed in substantial conformity with the plans and specifications upon which the Administrator based his valuation of the property, including any modifications thereof, or changes or variations therein, approved in writing by the Administrator, and no certificate of guaranty or insurance credit shall be issued unless a copy of such warranty duly receipted by the purchaser is submitted with the loan papers.

32. The centerhead immediately preceding § 36.4365 is amended to read as follows: "REFINANCING—38 U.S.C. 1814."

33. In § 36.4365, paragraphs (b) and (c) are amended to read as follows:



**§ 36.4365 Indebtedness eligible for refinancing.**

(b) Any loan proposed to be made to refinance a delinquent obligation which was incurred within 1 year of the date of the application for refinancing shall be referred in advance to the Administrator with a report of the proposed borrower's income and expenses and his affidavit stating the purchase price of the property purchased with the proceeds of the delinquent loan. The Administrator may hold any such case to be ineligible, if it appears the guaranty or insurance of such refinancing would effect an evasion of any of the limitations imposed by 38 U.S.C. Ch. 37.

(c) No loan guaranteed or insured by the Administrator under 38 U.S.C. Ch. 37 may be refinanced under 38 U.S.C. 1814.

34. The centerhead immediately preceding § 36.4370 is amended to read as follows: "LOANS UNDER 38 U.S.C. 1815."

35. In § 36.4370, paragraph (a) is amended to read as follows:

**§ 36.4370 Insured loan and insurance account.**

(a) Loans otherwise eligible may be insured when purchased by a lender eligible under 38 U.S.C. 1815 if the purchaser (lender) submits with the loan report evidence of an agreement, general or special, made prior to the closing of the loan, to purchase such loan subject to its being insured.

**§ 36.4371 [Revocation]**

36. Section 36.4371 is revoked.

37. In § 36.4381, paragraphs (a) and (d) are amended to read as follows:

**§ 36.4381 Jurisdiction of regional office loan guaranty committee on waivers and compromises.**

(a) The regional office committee will have original jurisdiction to adjudicate all cases in its area involving an indebtedness by a veteran to the United States of \$2,500 or less, resulting from payment of the gratuity, or as the result of a direct loan, or the guaranty or insurance of a loan under 38 U.S.C. Ch. 37.

(d) The regional office committee, subject to current Veterans Administration regulations and instructions, shall have jurisdiction to authorize the release of any right, title, claim, lien, or demand, however acquired, against any person obligated on a loan guaranteed, insured, or made by the Veterans Administration pursuant to the provisions of 38 U.S.C. Ch. 37.

38. In § 36.4382, paragraphs (a)(3) and (d) are amended to read as follows:

**§ 36.4382 Jurisdiction of central office loan guaranty committee on waivers and compromises.**

(a) \* \* \*

(3) All cases in which an appeal has been filed from the decision of the regional office loan guaranty committee involving an indebtedness by the veteran to the United States resulting from a direct loan or the guaranty or insurance of a loan under 38 U.S.C. Ch. 37.

(d) The central office committee, subject to current Veterans Administration regulations and instructions, shall have jurisdiction to authorize the release of any right, title, claim, lien, or demand, however acquired, against any person obligated on a loan guaranteed, insured, or made by the Veterans Administration pursuant to the provisions of 38 U.S.C. Ch. 37.

39. In § 36.4384, paragraph (a) is amended to read as follows:

**§ 36.4384 Principles to be followed by loan guaranty committee for waivers and compromises.**

(a) In determining whether an indebtedness or any part thereof shall be waived, the general equitable principles of 38 U.S.C. 3102 as explained in §§ 5.1 through 5.3, will be applied. The indebtedness may be waived in whole or in part: (1) When the veteran was not at fault in the creation of indebtedness which is being considered by the committee, and (2) where recovery of the whole or the part concerned (i) would defeat the purposes of the benefits otherwise authorized under the laws administered by the Veterans Administration, or (ii) would be against equity and good conscience.

40. Immediately following the centerhead "ASSISTANCE TO CERTAIN DISABLED VETERANS IN ACQUIRING SPECIALLY ADAPTED HOUSING" the note is revised to read as follows:

NOTE: Those requirements, conditions, or limitations expressly set forth in 38 U.S.C. Ch. 21 and not restated herein must be taken into consideration in conjunction with the regulations in §§ 36.4401 to 36.4410.

41. A new § 36.4400 is added to read as follows:

**§ 36.4400 Applicability.**

References in the regulations pertaining to assistance to certain disabled veterans in acquiring specially adapted housing to 38 U.S.C. Chs. 21 and 37, shall, where applicable, be deemed to refer also to the prior corresponding provisions of the law.

42. Section 36.4401 is revised to read as follows:

**§ 36.4401 Definitions.**

Wherever used in 38 U.S.C. Ch. 21 or §§ 36.4401 through 36.4410, unless the context otherwise requires, the terms defined in this section shall have the meaning herein stated; namely:

(a) "Administrator": The Administrator of Veterans Affairs or any employee of the Veterans Administration authorized by him to act in his stead.

(b) "Chapter 21": Chapter 21 of title 38, United States Code.

(c) "Movable facilities": Such exercising equipment and other aids as may be allowed or required by the Chief Medical Director or his designee.

(d) "Necessary land": Any plot of land the cost and area of which are not disproportionate to the type of improvements thereon and which is in keeping with the locality.

(e) "Special fixtures": Construction features which are specially designed to

overcome the physical limitations of the individual beneficiary and which are allowed or required by the Chief Medical Director or his designee as necessary by nature of the qualifying disability.

(f) "Housing unit": A family dwelling or unit approved by the Department of Medicine and Surgery as medically feasible for occupation as a home by the individual beneficiary, including the land, improvements, and all appurtenances, together with such movable facilities or special features as are authorized under the definitions of those terms in §§ 36.4401 through 36.4410.

(g) "Remodeling": Any alterations, repairs, or improvements necessary or desirable to the housing unit, as defined in §§ 36.4401 through 36.4410.

43. In § 36.4402, the introductory paragraph is amended to read as follows:

**§ 36.4402 Eligibility.**

No beneficiary shall be eligible for assistance under chapter 21 for the purpose of reimbursing him for the cost of an existing structure acquired by him prior to applying for assistance or for constructing or remodeling a dwelling, unless it is determined pursuant to §§ 36.4401 through 36.4410 in respect of the beneficiary that:

44. Section 36.4403 is revised to read as follows:

**§ 36.4403 Joint ownership of housing unit.**

The construction or remodeling of a housing unit, or reimbursement to a veteran who has acquired a suitable unit at his own expense, shall be permissible notwithstanding that title to the home is or will be vested in an eligible veteran and his spouse. If an undivided interest is or will be owned by a person other than the spouse of the veteran the cost of the unit to the veteran shall be computed to be such part of the total cost of the unit as is proportionate to the undivided interest of the veteran in the entire property, and the percentages and amounts prescribed in chapter 21 shall be calculated only upon such cost to the veteran.

45. Section 36.4407 is revised to read as follows:

**§ 36.4407 Supplementary administrative action.**

Notwithstanding any requirement, condition, or limitation stated in or imposed by §§ 36.4401 through 36.4410, the Administrator, within the limitations and conditions prescribed in 38 U.S.C. Chs. 3 and 21, may take such action as may be necessary or appropriate to relieve undue prejudice to a veteran or a third party contracting or dealing with such veteran which might otherwise result.

46. Section 36.4409 is revised to read as follows:

**§ 36.4409 Guaranteed or insured loans under 38 U.S.C. Ch. 37.**

In any case where, in addition to the benefits of Chapter 21, the veteran will utilize his entitlement to the loan guaranty or insurance benefits of 38 U.S.C. Ch. 37, the complete transaction must be in accord with applicable regulations



promulgated thereunder excepting § 36.4306 thereof.

47. In § 36.4410, the introductory paragraph is amended to read as follows:

§ 36.4410 Allocation of the funds of the grant.

Any amount payable as a grant under Chapter 21 may be required by the Administrator to be utilized as he deems advisable for payment of any of the following costs or debts which are obligations of the veteran before any part of grant may be paid to the veteran directly:

48. Immediately following the centerhead "DIRECT LOANS" the note is revised to read as follows:

NOTE: Those requirements, conditions, or limitations which are expressly set forth in 38 U.S.C. Ch. 37 are not restated herein and must be taken into consideration in the interpretation or application of the regulations concerning direct loans to veterans.

49. Section 36.4500 is revised to read as follows:

§ 36.4500 Applicability.

(a) The regulations concerning direct loans to veterans shall be applicable to loans made by Veterans Administration pursuant to 38 U.S.C. 1811.

(b) Title 38, U.S.C. Ch. 37 is a continuation and restatement of the provisions of title III of the Servicemen's Readjustment Act of 1944, and may be considered to be an amendment to such title III. References in the regulations concerning direct loans to veterans to the sections or chapters of title 38, United States Code, shall, where applicable, be deemed to refer to the prior corresponding provisions of the law.

50. Section 36.4501 is revised to read as follows:

§ 36.4501 Definitions.

Wherever used in 38 U.S.C. 1811 or the regulations concerning direct loans to veterans, unless the context otherwise requires, the terms defined in this section shall have the meaning herein stated, namely:

(a) "Administrator" means the Administrator of Veterans Affairs, or any employee of the Veterans Administration authorized by him to act in his stead.

(b) "Cost" means the entire consideration paid or payable for or on account of the application of materials and labor to tangible property.

(c) "Default" means failure of a borrower to comply with the terms of a loan agreement.

(d) "Dwelling" means a building designed primarily for use as a home, consisting of one residential unit only and not containing any business unit.

(e) "Farm residence" means a dwelling located on a farm which is to be occupied by the veteran as his home.

(f) "Guaranty" means the obligation of the United States, incurred pursuant to 38 U.S.C. Ch. 37, to repay a specified percentage of a loan upon the default of the primary debtor.

(g) "Home" means a place of residence.

(h) "Improvement" means any addition or alteration which enhances the utility of the property for residential purposes.

(i) "Indebtedness" means the unpaid principal and interest plus any other sums a borrower is obligated to pay Veterans Administration under the terms of the loan instruments or of the regulations concerning direct loans to veterans.

(j) "Loan" means a loan made to a veteran by Veterans Administration pursuant to the provisions of 38 U.S.C. 1811 and the regulations concerning direct loans to veterans.

(k) "Purchase price" means the entire legal consideration paid or payable upon or on account of the sale of property, exclusive of acquisition costs, or for the cost of materials and labor to be applied thereto.

(l) "Reasonable value" means that figure which represents the amount a reputable and qualified appraiser, unaffected by personal interest, bias, or prejudice, would recommend to a prospective purchaser as proper price or cost in the light of prevailing conditions.

(m) "Repairs" means any alteration of existing realty which is necessary or advisable for protective, safety, or restorative purposes.

(n) "Veterans Administration" means the Administrator of Veterans Affairs, or any employee of the Veterans Administration authorized by him to act in his stead.

51. In § 36.4503, paragraphs (a) and (b) are amended to read as follows:

§ 36.4503 Amount and amortization.

(a) The original principal amount of any loan made on or after April 4, 1958, shall not exceed an amount which bears the same ratio to \$13,500 as the amount of the guaranty to which the veteran is entitled under 38 U.S.C. 1810 at the time the loan is made bears to \$7,500, nor may any veteran obtain direct loans aggregating more than \$13,500. This limitation shall not preclude the making of advances, otherwise proper, subsequent to the making of the loan pursuant to the provisions of § 36.4511. Loans made by Veterans Administration shall bear interest at the rate of 4½ percent per annum, except where a commitment to make the loan was issued prior to April 4, 1958, in which case the rate of interest shall be 4½ percent per annum.

(b) Each loan shall be repayable on the basis of approximately equal monthly installments; except that in the case of loans made for any of the purposes described in clause (2), (3), or (4) of subsection (a) of 38 U.S.C. 1810, such loans may provide for repayment in quarterly, semiannual, or annual installments, provided that such plan of repayment corresponds to the present and anticipated income of the veteran.

52. In § 36.4508, paragraph (b) is amended to read as follows:

§ 36.4508 Transfer of property by borrower.

(b) Whenever any veteran disposes of residential property securing a direct

loan obtained by him under 38 U.S.C. Ch. 37, the Veterans Administration, upon application made by such borrower, shall issue to the borrower a release relieving him of all further liability to the Veterans Administration on account of such loan (including liability for any loss resulting from any default of the transferee or any subsequent purchaser of such property) if the Veterans Administration has determined, after such investigation as it deems appropriate, that there has been compliance with the conditions prescribed in 38 U.S.C. 1817. The assumption of full liability for repayment of the loan by the transferee of the property must be evidenced by the transferee's execution of an agreement in writing in such form as the Veterans Administration may require. Any release of liability granted to a veteran by the Veterans Administration shall inure to the spouse of such veteran.

53. In § 36.4510, paragraph (a) is amended to read as follows:

§ 36.4510 Prepayment, acceleration, and liquidation.

(a) Any credit on the loan not previously applied in satisfaction of matured installments, other than the gratuity credit required by prior provisions of law to be credited to principal, may be re-applied by Veterans Administration at the request of the borrower for the purpose of curing or preventing a default.

54. In § 36.4514, paragraphs (d) and (f) are amended to read as follows:

§ 36.4514 Eligibility requirements.

(d) Private capital is not available in the area at an interest rate not in excess of the rate authorized for guaranteed home loans for a loan for which the veteran is qualified under 38 U.S.C. 1810.

(f) In respect to a loan application received on or after September 15, 1956, there has been compliance by the applicant with the certification requirements prescribed in 38 U.S.C. 1804(c).

55. In § 36.4515, paragraph (a) (2) is amended to read as follows:

§ 36.4515 Estate of veteran in real property.

(a) \* \* \*

(2) A leasehold estate running or renewable at the option of the lessee for a period of not less than 14 years from the maturity of the loan, or to any earlier date at which the fee simple title will vest in the lessee, which is assignable or transferable, if the same be subjected to the lien; however, a leasehold estate which is not freely assignable and transferable will be considered an acceptable estate if it is determined by the Chief Benefits Director, or the Director, Loan Guaranty Service, (i) that such type of leasehold is customary in the area where the property is located; (ii) that a veteran or veterans will be prejudiced if the requirement for free assignability is adhered to and (iii) that the assignability and other provisions applicable to the leasehold estate are sufficient to protect the interests of the veteran and



the Government and are otherwise acceptable; or

56. In § 36.4520, paragraphs (a) and (c) are amended to read as follows:

**§ 36.4520 Delegation of authority.**

(a) Except as hereinafter provided, each employee of the Veterans Administration heretofore or hereafter appointed to, or otherwise lawfully filling, any position designated in paragraph (b) of this section is hereby delegated authority, within the limitations and conditions prescribed by law, to exercise the powers and functions of the Administrator with respect to the making of loans and the rights and liabilities arising therefrom, including but not limited to the collection or compromise of amounts due, in money or other property, the extension, rearrangement, or sale of loans, the management and disposition of secured or unsecured notes and other property. In connection with direct loans made and held by the Veterans Administration, such designated employees may take any action which they are authorized to consent to or approve in respect to guaranteed or insured loans under the regulations prescribed therefor by the Administrator. Incidental to the exercise and performance of the powers and functions hereby delegated, each such employee is authorized to execute and deliver (with or without acknowledgment) for, and on behalf of, the Administrator evidence of guaranty and such certificates, forms, conveyances, and other instruments as may be appropriate in connection with the acquisition, ownership, management, sale, transfer, assignment, encumbrance, rental, or other disposition of real or personal property or of any right, title, or interest therein, including, but not limited to, contracts of sale, installment contracts, deeds, leases, bills of sale, assignments, and releases; and to approve disbursements to be made for any purpose authorized by 38 U.S.C. Ch. 37.

(c) Nothing in this section shall be construed to authorize any such employee to exercise the authority vested in the Administrator under 38 U.S.C. 210(c) or 1815(b) or to sue or enter appearance for and on behalf of the Administrator or confess judgment against him in any court without his prior authorization.

57. Section 36.4523 is revised to read as follows:

**§ 36.4523 Geographical limits.**

Any real property purchased, constructed, or improved with the proceeds of a loan under 38 U.S.C. 1811 shall be situated in the United States, which for purposes of 38 U.S.C. Ch. 37 is here defined as the several States, Territories, and possessions, the District of Columbia and the Commonwealth of Puerto Rico: *Provided*, That no loan shall be made pursuant to 38 U.S.C. 1811 unless the real property is located in one of the areas designated from time to time by Veterans Administration as an area in which private capital is not available under 38 U.S.C. Ch. 37 to eligible veterans for

financing of the purchase, construction, repairs, alterations, or improvement of a farm residence or other dwelling, as the case may be.

58. Section 36.4524 is revised to read as follows:

**§ 36.4524 Sale of loans.**

In the event a direct loan is purchased from Veterans Administration at any time pursuant to the provisions of 38 U.S.C. 1811(g), Veterans Administration may issue a guaranty in connection therewith within the maximums applicable to loans guaranteed under 38 U.S.C. 1810 and such loans shall thereafter be subject to the applicable provisions of the regulations governing the guaranty or insurance of loans to veterans, and such part of the regulations concerning direct loans to veterans as may be inconsistent therewith or variant therefrom shall no longer govern the subsequent disposition of the rights and liabilities of any interested parties.

**§§ 36.5001—36.5009 [Revocation]**

59. Sections 36.5001 through 36.5009 are revoked.

These regulations are effective April 7, 1959.

[SEAL]

BRADFORD MORSE,  
Deputy Administrator.

[F.R. Doc. 59-2877; Filed, Apr. 6, 1959;  
8:49 a.m.]

## Title 32A—NATIONAL DEFENSE, APPENDIX

### Chapter XVIII—National Shipping Authority, Maritime Administration, Department of Commerce

[NSA Order 6 (INS-1, Seventh Rev.,  
Amdt. 1)]

### INS-1—MARINE PROTECTION AND INDEMNITY INSURANCE INSTRUCTIONS UNDER GENERAL AGENCY AND BERTH AGENCY AGREEMENTS

#### Miscellaneous Amendments

Effective as of March 31, 1959, midnight, e.s.t., INS-1 is hereby amended as follows:

#### Section 1. What this order does.

1. Amend section 1 by changing the attachment date stated therein to read March 31, 1959, midnight, e.s.t.

#### Sec. 2. Insurer.

2. Amend section 2 by changing the attachment and expiration dates stated therein to read March 31, 1959, midnight, e.s.t., and March 31, 1960, midnight, e.s.t., respectively.

#### Sec. 4. Vessels insured and terms of insurance.

3. Amend section 4 by changing the attachment date stated therein to read March 31, 1959, midnight, e.s.t., by changing the expiration date stated therein to read March 31, 1960, midnight, e.s.t., and by changing the annual rate

stated therein to read \$3.50 per gross registered ton.

#### Sec. 5. Assumption of risk by Owner and attachment and cancellation dates of commercial insurance.

(e) *Vessels presently in operation under General Agency Agreement 3-19-51.*

4. Amend paragraph (e) of section 5 by changing the attachment date stated therein to read March 31, 1959, midnight, e.s.t.

#### Sec. 7. Insurance premiums.

(a) *Payment of premiums.*

5. Amend paragraph (a) of section 7 by changing the expiration date stated therein to read March 31, 1960, midnight, e.s.t.

#### Sec. 9. Settlement of Claims.

(c) *Claims declined by Underwriters.*

6. Amend paragraph (c) of section 9 by changing the attachment date stated therein to read March 31, 1959, midnight, e.s.t.

#### Sec. 11. Report of claims.

7. Amend paragraph (b) of section 11 by changing the reporting date stated therein to read December 31, 1959.

(Sec. 204, 49 Stat. 1987, as amended; 46 U.S.C. 1114)

In accordance with the provisions of section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found to be impracticable and not in the public interest to delay the effective date thereof; therefore, the foregoing amendments shall be effective as aforesaid.

Dated: March 30, 1959.

[SEAL]

WALTER C. FORD,  
Deputy Maritime Administrator.

[F.R. Doc. 59-2882; Filed, Apr. 6, 1959;  
8:50 a.m.]

## Title 49—TRANSPORTATION

### Chapter I—Interstate Commerce Commission

#### SUBCHAPTER B—CARRIERS BY MOTOR VEHICLE

[Ex Parte No. MC-40]

### PART 193—PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

#### Qualifications and Maximum Hours of Service of Employees of Motor Carriers and Safety of Operation and Equipment

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 31st day of March A.D. 1959.

The matter of parts and accessories necessary for safe operation under the Motor Carrier Safety Regulations prescribed by order of April 14, 1952, as amended, being under consideration; and

It appearing, that amendment of § 193.43(b) relating to breakaway and



emergency braking is warranted, and good cause appearing therefor;

It further appearing, that this amendment, which will permit utilization of brake systems designed to make effective automatic emergency application of brakes on towed vehicles equipped with vacuum brakes, is a relaxation of present requirements, and therefore, pursuant to section 4(a) of the Administrative Procedure Act (60 Stat. 237, 5 U.S.C. 1003), for good cause it is found that notice of proposed rule making is unnecessary;

*It is ordered*, That § 193.43(b), Part 193, of the Motor Carrier Safety Regulations prescribed by order of April 14, 1952, as amended (49 CFR 193.43(b)) be, and it is hereby, amended to read as follows:

(b) Every truck-tractor and truck used for towing other vehicles equipped with vacuum brakes, in operations other than driveway and towaway, on and after January 1, 1957, shall have, in addition to the single control required by § 193.49 to operate all brakes of the combination, a second control device which can be used to operate the brakes on the towed vehicles in emergencies. Such sec-

ond control shall be independent of brake air, hydraulic, and other pressure and independent of other controls, unless the braking system be so arranged that failure of the pressure on which the second control depends will cause the towed vehicle brakes to be applied automatically. The second control is not required by this rule to provide modulated or graduated braking.

*It is further ordered*, That this order shall become effective this date and shall continue in effect until further order of the Commission;

*And it is further ordered*, That notice of this order shall be given to the general public by depositing a copy thereof in the office of the Secretary of the Interstate Commerce Commission, Washington, D.C., and by filing a copy thereof with the Director, Federal Register Division.

[49 Stat. 546, as amended; 49 U.S.C. 304]

By the Commission.

[SEAL] HAROLD D. MCCOY,  
Secretary.

[F.R. Doc. 59-2866; Filed, Apr. 6, 1959;  
8:48 a.m.]

## PROPOSED RULE MAKING

### DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 914]

#### NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

##### Findings and Determinations with Respect to the Continuance of the Amended Marketing Agreement and Order

Pursuant to the applicable provisions of Marketing Agreement No. 117, as amended, and Order No. 14, as amended (7 CFR Part 914) and the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601 et seq.) notice was given in the FEDERAL REGISTER on January 30, 1959 (24 F.R. 678), that a referendum would be conducted among the growers who, during the period November 1, 1957, through October 31, 1958 (which period was determined to be a representative period for purposes of such referendum), had been engaged, in the State of Arizona and that part of the State of California south of the 37th Parallel, in the production of navel oranges for market to determine whether such growers favor continuance of the said marketing agreement and order.

Upon the basis of the results of the aforesaid referendum, which was conducted during the period February 20, 1959, through March 13, 1959, both dates inclusive, it is hereby found and determined that the continuance of the said

marketing agreement and order is favored by the requisite majority of such growers.

Dated: April 1, 1959.

[SEAL] TRUE D. MORSE,  
Acting Secretary.

[F.R. Doc. 59-2864; Filed, Apr. 6, 1959;  
8:47 a.m.]

### INTERSTATE COMMERCE COMMISSION

[49 CFR Part 193]

#### PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

[Ex Parte No. MC-40]

##### Qualifications and Maximum Hours of Service of Employees of Motor Carriers and Safety of Operation and Equipment

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 31st day of March A.D. 1959.

The matter of parts and accessories necessary for safe operation, particularly the provisions of Section 193.42(c) of the Motor Carrier Safety Regulations relating to brakes required on trucks and truck-tractors having three or more axles, and Section 193.48 requiring all brakes to be operative, with certain exceptions, as prescribed by order dated April 14, 1952, as amended, and the record in the entitled proceeding; being under consideration, and

It appearing, that in accordance with section 4(a) of the Administrative Procedure Act (5 U.S.C. 1003), a notice of proposed rule making was issued September 5, 1958 (23 F.R. 7262), proposing to amend §§ 193.42(c) and 193.48 of the Motor Carrier Safety Regulations adopted April 14, 1952, as amended, (49 CFR 193.42(c) and 193.48) (Authority: 49 Stat. 546, as amended; 49 U.S.C. 304) relating to Brakes required on all wheels and Brakes to be operative, and to substitute therefor the rules proposed in the aforementioned notice of proposed rule making, in which notice interested parties were invited to present statements containing data, views, or arguments on the proposal on or before November 14, 1958, which time was extended to March 14, 1959, by order entered October 29, 1958 (23 F.R. 8673), and

It further appearing, that information received from interested parties in response to the above-mentioned Notice of Proposed Rule Making shows that technical development work currently in progress in the field of new devices intended to provide improved braking performance is not sufficiently advanced to permit adequate response to the proposed changes, and

It further appearing, that test and development work currently being conducted by this Commission with the cooperation of the U.S. Bureau of Public Roads and with the assistance of an Industry Advisory Committee, is not sufficiently advanced to permit proper evaluation of the proposed changes; and good cause appearing therefor;

*It is ordered*, That effective this date the proposed rule making proceeding instituted by the order entered September 5, 1958, be, and it is hereby, discontinued.

*And it is further ordered*, That notice of this order shall be given to motor carriers, other persons of interest, and to the general public by depositing a copy thereof in the office of the Secretary of the Interstate Commerce Commission, Washington, D.C., and by filing a copy thereof with the Director, Federal Register Division.

By the Commission.

[SEAL] HAROLD D. MCCOY,  
Secretary.

[F.R. Doc. 59-2867; Filed, Apr. 6, 1959;  
8:48 a.m.]

### DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR (1954) Part 1]

#### INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

##### Notice of Hearing on Proposed Regulations

Proposed regulations under section 501(c) (3) and (4) of the Internal Revenue Code of 1954, relating to certain organizations exempt from income tax,