

information developed by the Commission concerning the operational and financial condition of broker-dealers which are in or approaching financial difficulty. The need to provide information to SIPC is frequent, generally routine, and largely nondiscretionary in light of the Commission's responsibilities under Section 5 of SIPA. In view of the foregoing, the rules of the Commission relating to general organization are being amended to delegate to the Directors of the Divisions of Market Regulation and Enforcement and to the Regional Administrators authority to notify SIPC, in appropriate cases, of such information. Accordingly, Chapter II of Title 17 of the Code of Federal Regulations is amended as follows:

1. Section 200.30-3 is amended by adding a new paragraph (d) and redesignating present paragraph (d) as paragraph (e).

**§ 200.30-3 Delegation of authority to Director of Division of Market Regulation.**

(d) To notify the Securities Investor Protection Corporation ("SIPC") of facts concerning the activities and the operational and financial condition of any registered broker or dealer which is or appears to be a member of SIPC and which is in or approaching financial difficulty within the meaning of Section 5 of the Securities Investor Protection Act of 1970, as amended, 15 U.S.C. 78aaa, *et seq.*

2. Section 200.30-4 is amended by adding paragraph (a)(6) as follows:

**§ 200.30-4 Delegation of authority to Director of Division of Enforcement.**

(a) \* \* \*

(6) To notify the Securities Investor Protection Corporation ("SIPC") of facts concerning the activities and the operational and financial condition of any registered broker or dealer which is or appears to be a member of SIPC and which is in or approaching financial difficulty within the meaning of Section 5 of the Securities Investor Protection Act of 1970, as amended, 15 U.S.C. 78aaa, *et seq.*

3. Section 200.30-6 is amended by adding a new paragraph (f) and redesignating present paragraph (f) as paragraph (g).

**§ 200.30-6 Delegation of authority to Regional Administrators.**

(f) To notify the Securities Investor Protection Corporation ("SIPC") of facts concerning the activities and the operational and financial condition of

any registered broker or dealer which is or appears to be a member of SIPC and which is in or approaching financial difficulty within the meaning of Section 5 of the Securities Investor Protection Act of 1970, as amended, 15 U.S.C. 78aaa, *et seq.*

(Sec. 25, Pub. L. 94-29, 89 Stat. 146 (15 U.S.C. 78s); Sec. 18, Pub. L. 94-29, 89 Stat. 155 (15 U.S.C. 78w); Sec. 5, Pub. L. 91-598, 84 Stat. 1644 (15 U.S.C. 78eee))

The Commission finds, in accordance with 5 U.S.C. 553(b)(A) and 553(d)(3) of the Administrative Procedure Act, that the foregoing action relates solely to agency organization, procedure or practice and should be effective immediately in order to improve the providing of information to SIPC about brokers or dealers which are in or approaching financial difficulty. Accordingly, the foregoing action becomes effective immediately.

By the Commission.

George A. Fitzsimmons,  
Secretary.

April 10, 1979.

[Rel. No. 34-15713]

[FR Doc. 79-11947 Filed 4-16-79; 8:45 am]

BILLING CODE 8010-01-M

## VETERANS ADMINISTRATION

### 38 CFR Part 3

#### Veterans Disability Compensation and Survivors Increased Benefits

**AGENCY:** Veterans Administration.

**ACTION:** Final Regulations.

**SUMMARY:** The Veterans Administration is amending its regulations to implement the Veterans' Disability Compensation and Survivors' Benefits Act of 1978, enacted October 18, 1978. This law (1) increases the rates of disability compensation and dependency and indemnity compensation by approximately 7.3 percent; (2) reduces the service-connected degree of disability evaluation needed to be eligible to receive additional compensation for dependents from 50 percent to 30 percent; (3) increases the Medal of Honor pension from \$100 to \$200 monthly; (4) provides increased compensation for certain veterans who have suffered service-connected loss or loss of use of three extremities; (5) authorizes an increase in the rate of dependency and indemnity compensation payable to a veteran's surviving spouse who is housebound; (6) increases the compensation payable to certain veterans who have suffered service-connected loss or loss of use of

an extremity and nonservice-connected loss or loss of use of the paired extremity; (7) increases the clothing allowance from \$203 to \$218; (8) establishes a new monthly aid and attendance rate of \$900 for certain veterans catastrophically disabled from service-connected disability; (9) authorizes payment of dependency and indemnity compensation rates in certain cases when a veteran's death is nonservice connected; (10) increases from \$250 to \$300 the burial allowance payable when a veteran's death is nonservice-connected and from \$800 to \$1,100 (or if greater, the amount payable for the funeral and burial expenses of a federal employee who dies as a result of an injury sustained in the performance of duty) the burial allowance payable when a veteran's death is service-connected; (11) increases the automobile allowance from \$3,300 to \$3,800, and (12) exempts from taxation the amount of military retired pay equivalent to the amount of compensation or pension a former servicemember is found entitled to receive from date of the compensation or pension entitlement determination to date of waiver of retired pay provided waiver of retired pay is filed within 1 year after notification of Veterans Administration entitlement. In addition to changes implementing the new law, certain terms have been changed to eliminate gender reference in regulations requiring amendment because of the new law (e.g. "widow or widower" to "surviving spouse").

**EFFECTIVE DATE:** The increase in the Medal of Honor pension is effective January 1, 1979. All other changes are effective October 1, 1978.

**FOR FURTHER INFORMATION CONTACT:** T. H. Spindle Jr. 202-389-3005.

**SUPPLEMENTARY INFORMATION:** On pages 55420-55427 of the Federal Register of November 28, 1978, there were published proposed regulations to implement the Veterans' Disability Compensation and Survivors' Benefits Act of 1978, Pub. L. 95-479 (92 Stat. 1560)

Interested persons were given 30 days to submit comments, suggestions, or objections to the proposed regulations. One comment was received that made a number of suggestions to improve the regulations. Some of the commentator's suggestions related to matters of style or grammatical construction. We have adopted some of these suggestions in the final regulations. Since no substantive changes are involved, we are making them without comment. The commentator's other suggestions that we have incorporated in the final rule are

discussed below since they make significant improvement in the final regulations.

The commentator feels that the proposed title of § 3.22, "Benefits payable as if cause of death is service connected", is misleading since it implies that the benefits involved are to be paid on the basis of a legal fiction that the veteran's death was service connected. The commentator said that this was not the intent of Congress. He pointed out that the benefit is intended to provide income security at dependency and indemnity compensation (DIC) rates to the surviving spouses and children of certain totally disabled veterans. The commentator believes that a more appropriate title would be "Benefits at DIC rates in certain cases when death is not service connected". We agree. The final rule incorporates this suggested change.

The proposed § 3.22(a)(1) omits any reference to a death caused by a survivor's willful misconduct. The commentator suggests that we include a reference to § 3.11— which embodies the common-law prohibition against an individual profiting from his or her own wrongdoing—and that we amend § 3.11 to make it applicable to benefits paid under § 3.22. The commentator correctly points out that Congress did not intend for a surviving spouse or child who intentionally and wrongfully caused the death of the veteran to receive benefits under § 3.22. The final regulations, therefore, include the suggested cross reference and amendment to § 3.11.

Regarding § 3.22(b), we have indicated in the final regulation, as the commentator suggests, that an award of social security benefits or workers' compensation is subject to recoupment. The commentator also believes that the proposed § 3.22(b) is deficient in that it fails to indicate the means to be adopted to assure that beneficiaries properly report to the Veterans Administration the receipt of a judgment award or settlement amount for damages for the death of the veteran. Voluntary compliance is the only means we have available to enforce this "offset" provision. The application for death benefits is being amended to ask if the claimant expects to receive such a judgment award or settlement amount. In addition, a beneficiary will be notified when an award of benefits is made under § 3.22 of his or her duty to promptly report a judgment award or settlement amount for damages for the death of the veteran. Also, we have stipulated in the final regulation that a person receiving benefits under § 3.22 is

under an affirmative duty to promptly report receipt of such income.

Similar amendments have been made in the final version of § 3.384 since a similar "offset" provision is applicable to payment of increased compensation under § 3.384.

The commentator suggests that in §§ 3.350(h) and 3.352(b)(2) we refer to the requirement of eligibility for the new aid and attendance benefit authorized by 38 U.S.C. 314(r)(2) as "need for a higher level of care", and the benefit itself as "higher level aid and attendance allowance". We have adopted this suggestion in the final regulations.

In the Supplemental Information portion of our proposed regulatory development we said that Congress intended that the provision establishing the new higher level aid and attendance allowance be strictly construed, and that the new allowance be granted only when the veteran's need is clearly established and the amount of services required by the veteran on a daily basis is substantial. The commentator believes that the proposed § 3.352(b) should contain similar language. We agree and have so amended the final regulation.

The commentator also believes that the words "under the regular supervision of a licensed health-care professional" appearing in § 3.352(b)(2) should be defined. We agree and have done so in the final regulation. Another suggested change to § 3.352(b) which we have adopted is to state that a relative or other member of a veteran's household who provides health-care services is not exempted from the requirement that he or she be a licensed health-care professional or be providing such services under the regular supervision of a licensed health-care professional.

The final regulations are set forth below.

By direction of the Administrator.

Approved: April 11, 1979.

Rufus H. Wilson,  
Deputy Administrator.

### § 3.3 [Amended]

1. Section 3.3 is amended by deleting the words "widow, widower" and inserting "surviving spouse" in the first and second sentences of paragraph (d)(3).

2. Section 3.4 is amended as follows:

(a) By deleting the words "widow, widower" and inserting "surviving spouse".

(1) In the first sentence of paragraph (a);

(2) In the introductory portion of paragraph (c) preceding subparagraph (1);

(b) By revising paragraph (b)(2) to read as follows:

### § 3.4 Compensation.

(b) *Disability compensation.* \* \* \*  
(2) An additional amount of compensation may be payable for a spouse, child, and/or dependent parent where a veteran is entitled to compensation based on disability evaluated as 30 per centum or more disabling. (38 U.S.C. 315)

3. In § 3.5, paragraph (a), the introductory portion of paragraph (b) preceding subparagraph (1) and paragraphs (d) and (e) are revised to read as follows:

### § 3.5 Dependency and indemnity compensation.

(a) "*Dependency and indemnity compensation.*" This term means a monthly payment made by the Veterans' Administration to a surviving spouse, child, or parent:

(1) Because of a service-connected death occurring after December 31, 1956, or

(2) Pursuant to the election of a surviving spouse, child, or parent, in the case of such a death occurring before January 1, 1957. (38 U.S.C. 101 (14))

(b) *Entitlement.* Basic entitlement for a surviving spouse, child or children, and parent or parents of a veteran exists, if:

(d) *Group life insurance.* No dependency and indemnity compensation or death compensation shall be paid to any surviving spouse, child or parent based on the death of a commissioned officer of the Public Health Service, the Coast and Geodetic Survey, the Environmental Science Services Administration, or the National Oceanic and Atmospheric Administration occurring on or after May 1, 1957, if any amounts are payable under the Federal Employees' Group Life Insurance Act of 1954 (Pub. L. 598, 83d Cong., as amended) based on the same death. (Sec. 501(c)(2), Pub. L. 881, 84th Cong. (70 Stat. 857), as amended by Sec. 13(u), Pub. L. 85-857; (72 Stat. 1266); Sec. 5, Pub. L. 91-621 (84 Stat. 1863))

(e) *Surviving spouse's rate.* (1) The monthly rate of dependency and indemnity compensation for a surviving spouse is based on the "pay grade" of the veteran. This rate is subject to increase as provided in paragraph (e) (3) and (4) of this section. (38 U.S.C. 411(a))

(2) The Secretary of the concerned service department will certify the "pay grade" of the veteran and the certification will be binding on the Veterans Administration. (38 U.S.C. 421)

(3) If there is a surviving spouse with one or more children under the age of 18 (including a child not in the surviving spouse's actual or constructive custody and a child who is in active military, air, or naval service), the total amount payable shall be increased by the amount set forth in 38 U.S.C. 411(b) for each child.

(4) If the surviving spouse is determined to be in need of regular aid and attendance under the criteria in § 3.352 or is a patient in a nursing home, the total amount payable shall be increased by the amount set forth in 38 U.S.C. 411(c). If the surviving spouse does not qualify for the regular aid and attendance allowance but is housebound under the criteria in § 3.351(f), the total amount payable shall be increased by the amount set forth in 38 U.S.C. 411(d).

3a. Section 3.11 is added to read as follows:

#### § 3.11 Homicide.

Any person who has intentionally and wrongfully caused the death of another person is not entitled to pension, compensation, or dependency and indemnity compensation or increased pension, compensation, or dependency and indemnity compensation by reason of such death. For the purpose of this section the term "dependency and indemnity compensation" includes benefits at dependency and indemnity compensation rates paid under 38 U.S.C. 410(b).

4. Section 3.20 is revised to read as follows:

#### § 3.20 Surviving spouse's benefit for month of veteran's death.

Where the veteran died on or after December 1, 1962, the rate of death pension, or dependency and indemnity compensation otherwise payable for the surviving spouse for the month in which the death occurred shall be not less than the amount of pension or compensation which would have been payable to or for the veteran for that month but for his or her death. (38 U.S.C. 3110)

5. Section 3.22 and cross references are added to read as follows:

#### § 3.22 Benefits at DIC rates in certain cases when death is not service connected.

(a) *Entitlement criteria.* Benefits authorized by section 410(b) of title 38, United States Code shall be paid to a deceased veteran's surviving spouse

(See § 3.54(c)(2)) or children in the same manner as if the veteran's death is service connected when the following conditions are met:

(1) The veteran's death was not caused by his or her own willful misconduct; and

(2) The veteran was in receipt of (or but for the receipt of military retired pay was entitled to receive) compensation at time of death for service-connected disablement that either:

(i) Was continuously rated totally disabling by a schedular or unemployability rating for a period of 10 or more years immediately preceding death; or

(ii) Was continuously rated totally disabling by a schedular or unemployability rating from the date of the veteran's discharge or release from active duty for a period of not less than 5 years immediately preceding death.

(b) *Effect of judgment or settlement.* If a surviving spouse or child eligible for benefits under paragraph (a) of this section receives any money or property pursuant to a judicial proceeding based upon, or a settlement or compromise of, any cause of action or other right of recovery for damages for the death of the veteran, benefits payable under paragraph (a) of this section shall not be paid for any month following the month in which such money or property is received until the amount of benefits that would otherwise have been payable under paragraph (a) of this section equals the total of the amount of money received and the fair market value of the property received.

(c) *Social security and worker's compensation.* Benefits received under social security or worker's compensation are not subject to recoupment under paragraph (b) of this section even though such benefits may have been awarded pursuant to a judicial proceeding.

(d) *Beneficiary's duty to report.* Any person entitled to benefits under paragraph (a) of this section shall promptly report to the Veterans Administration the receipt of any money or property received pursuant to a judicial proceeding based upon, or a settlement or compromise of, any cause of action or other right of recovery for damages for the death of the veteran. The amount to be reported is the total of the amount of money received and the fair market value of property received. Expenses incident to recovery, such as attorney's fees, may not be deducted from the amount to be reported.

(e) *Relationship to survivor benefit plan.* For the purpose of 10 U.S.C. 1448(d) and 1450(c) eligibility for

benefits under paragraph (a) of this section shall be deemed eligibility for dependency and indemnity compensation under 38 U.S.C. 411(a). (38 U.S.C. 410(b))

Cross References: Marriage dates. See § 3.54. Homicide. See § 3.11.

6. Section 3.54 is amended as follows:

(a) By deleting the words "widow's or widower's" and inserting "surviving spouse's" in the first sentence of paragraph (d).

(b) By deleting "widow or widower" and inserting "surviving spouse" in paragraph (e).

(c) By revising the introductory portion of paragraph (b) preceding subparagraph (1) and paragraph (c) to read as follows:

#### § 3.54 Marriage dates.

(b) *Compensation.* Death compensation may be paid to a surviving spouse who, with respect to date of marriage, could have qualified as a surviving spouse for death compensation under any law administered by the Veterans Administration in effect on December 31, 1957, or who was married to the veteran:

(c) *Dependency and indemnity compensation.* (1) Dependency and indemnity compensation payable under 38 U.S.C. 410(a) may be paid to the surviving spouse of a veteran who died on or after January 1, 1957, who was married to the veteran:

(i) Before the expiration of 15 years after the termination of the period of service in which the injury or disease causing the death of the veteran was incurred or aggravated, or

(ii) For 1 year or more, or

(iii) For any period of time if a child was born of the marriage, or was born to them before the marriage. (38 U.S.C. 404)

(2) In order for a surviving spouse to be entitled to benefits under section 410(b) of title 38, United States Code, in the same manner as if death is service connected, the marriage to the veteran shall have been for a period of not less than 2 years immediately preceding the date of the veteran's death. (See § 3.22) The birth of a child does not change this requirement. (38 U.S.C. 410(b))

7. In § 3.55, the introductory portion of paragraph (a) preceding subparagraph (1) and paragraphs (b), (c) and (d) are revised as follows:

#### § 3.55 Terminated marital relationships.

(a) Remarriage of a surviving spouse or marriage of a child shall not bar the furnishing of benefits to such surviving

spouse or to or on account of such child, if the marriage

(b) On and after January 1, 1971, remarriage of a surviving spouse shall not bar the furnishing of benefits to such surviving spouse if the marriage

(1) Has been terminated by death, or

(2) Has been dissolved by a court with basic authority to render divorce decrees unless the Veterans Administration determines that the divorce was secured through fraud by the surviving spouse or by collusion.

(c) On and after January 1, 1971, the fact that a surviving spouse has lived with another person and has held herself (himself) out openly to the public as the spouse of such other person shall not bar the furnishing of benefits to her (him) after she (he) terminates the relationship.

(d) On and after January 1, 1971, the fact that benefits to a surviving spouse may previously have been barred because her (his) conduct or a relationship into which she (he) had entered had raised an inference or presumption that she (he) had remarried or had been determined to be open and notorious adulterous cohabitation, or similar conduct, shall not bar the furnishing of benefits to such surviving spouse after she (he) terminates the conduct or relationship.

8. In § 3.350, paragraphs (a) (introductory portion preceding subparagraph (1)), (f)(1) (i) and (iii) and (2) (i) and (iii) and (h) are revised and paragraph (f)(5) is added so that the added and revised material reads as follows:

**§ 3.350 Special monthly compensation ratings.**

The rates of special monthly compensation stated in this section are those provided under 38 U.S.C. 314.

(a) *Ratings under 38 U.S.C. 314(k).* Special monthly compensation under 38 U.S.C. 314(k) is payable for each anatomical loss or loss of use of one hand, one foot, both buttocks, one or more creative organs, blindness of one eye having only light perception, deafness of both ears, having absence of air and bone conduction, or complete organic aphonia with constant inability to communicate by speech. This special compensation is payable in addition to the basic rate of compensation otherwise payable on the basis of degree of disability, provided that the combined rate of compensation does not exceed \$1,005 monthly when authorized in conjunction with any of the provisions of 38 U.S.C. 314 (a) through (j)

or (s). When there is entitlement under 38 U.S.C. 314 (l) through (n) or an intermediate rate under (p) such additional allowance is payable for each such anatomical loss or loss of use existing in addition to the requirements for the basic rates: *Provided*, The total does not exceed \$1,408 per month. The limitations on the maximum compensation payable under this paragraph are independent of and do not preclude payment of additional compensation for dependents under 38 U.S.C. 315, or the special allowance for aid and attendance provided by 38 U.S.C. 314(r).

(f) *Intermediate or next higher rate; 38 U.S.C. 314(p)—(1) Extremities.* (i) Anatomical loss or loss of use of one extremity with the anatomical loss or loss of use of another extremity at a level or with complications preventing natural elbow or knee action with prosthesis in place will entitle to the rate intermediate between 38 U.S.C. 314 (l) and (m). The monthly rate is \$1,056.

(iii) Anatomical loss or loss of use of extremity at a level preventing natural elbow or knee action with prosthesis in place with anatomical loss of another extremity so near the shoulder or hip as to prevent the use of a prosthetic appliance will entitle to the rate intermediate between 38 U.S.C. 314 (m) and (n). The monthly rate is \$1,183.

(2) *Eyes, bilateral, and blindness in connection with deafness.* (i) Blindness of one eye with 5/200 visual acuity or less and blindness of the other eye having only light perception will entitle to the rate intermediate between 38 U.S.C. 314 (l) and (m). The monthly rate is \$1,056.

(iii) Blindness of one eye having only light perception and anatomical loss, or blindness having no light perception accompanied by phthisis bulbi, evisceration or other obvious deformity or disfigurement of the eye, will entitle to a rate intermediate between 38 U.S.C. 314 (m) and (n). The monthly rate is \$1,183.

(5) *Three extremities.* Anatomical loss or loss of use, or a combination of anatomical loss and loss of use, of three extremities shall entitle a veteran to the next higher rate without regard to whether that rate is a statutory rate or an intermediate rate. The maximum monthly payment under this provision may not exceed \$1,408. (38 U.S.C. 314(p))

(h) *Special aid and attendance benefit in maximum monthly compensation cases; 38 U.S.C. 314(r).* A veteran receiving the maximum rate (\$1,408) of special monthly compensation under any provision or combination of provisions in 38 U.S.C. 314 who is in need of regular aid and attendance or a higher level of care is entitled to an additional allowance during periods he or she is not hospitalized at U.S. Government expense. (See § 3.552(b)(2) as to continuance following admission for hospitalization.) The regular aid and attendance allowance is \$604; the higher level aid and attendance allowance rate is \$900 and is in lieu of the regular aid and attendance allowance. Determination of this need is subject to the criteria of § 3.352. The regular or higher level aid and attendance allowance is payable whether or not the need for regular aid and attendance or a higher level of care was a partial basis for entitlement to the maximum \$1,408 rate, or was based on an independent factual determination.

9. In § 3.351, paragraph (a) and the introductory portion of paragraph (c) preceding subparagraph (1) are revised and paragraph (f) is added so that the revised and added material reads as follows:

**§ 3.351 Special monthly dependency and indemnity compensation, death compensation, pension and spouse's compensation ratings.**

(a) *Aid and attendance; general.* Additional pension for veterans in need of regular aid and attendance is provided for Spanish-American War veterans (38 U.S.C. 512) and for veterans of the Mexican border period, World War I, World War II, the Korean conflict or the Vietnam era (38 U.S.C. 521). Additional pension for surviving spouses in need of regular aid and attendance is provided for surviving spouses of veterans of all periods of war, including those entitled to pension under the law in effect on June 30, 1960, based on service in World War I, World War II, or the Korean conflict (38 U.S.C. 544). Additional compensation is provided for a married veteran receiving compensation of the 30 percent rate or greater whose spouse is in need of regular aid and attendance. (38 U.S.C. 315(l)(I)) Additional dependency and indemnity compensation and death compensation for surviving spouses and for parents in need of regular aid and attendance is provided for surviving spouses and for parents of veterans of

all periods of service. (38 U.S.C. 322(b); 411(c); 415(h))

(c) *Aid and attendance; criteria.* The veteran, spouse, surviving spouse, or parent will be considered in need of regular aid and attendance if he or she:

(f) *Housebound; dependency and indemnity compensation.* The monthly rate of dependency and indemnity compensation payable to a surviving spouse who does not qualify for increased dependency and indemnity compensation under 38 U.S.C. 411(c) based on need for regular aid and attendance shall be increased by the amount specified in 38 U.S.C. 411(d) if the surviving spouse is permanently housebound by reason of disability. The permanently housebound requirement is met when the surviving spouse is substantially confined as a direct result of disabilities to his or her home (ward or clinical areas, if institutionalized) or immediate premises by reason of disability or disabilities which it is reasonably certain will remain throughout the surviving spouse's lifetime. (38 U.S.C. 411(d))

10. Immediately following § 3.351, the cross references are changed to read as follows:

**Cross References:** Basic pension determinations. See § 3.314.

Criteria for permanent need for aid and attendance and "permanently bedridden." See § 352.

11. Section 3.352 is amended as follows:

(a) By changing the heading of the section.

(b) By changing the heading of paragraph (a).

(c) By adding paragraph (b) and redesignating paragraph (b) as paragraph (c) so that the added and redesignated material reads as follows:

**§ 3.352 Criteria for permanent need for aid and attendance and "permanently bedridden."**

(a) *Basic criteria for regular aid and attendance and permanently bedridden.*

(b) *Basic criteria for the higher level aid and attendance allowance.* (1) A veteran is entitled to the higher level aid and attendance allowance authorized by § 3.350(h) in lieu of the regular aid and attendance allowance when all of the following conditions are met:

(i) The veteran is entitled to the compensation authorized under 38 U.S.C. 314(o), or the maximum rate of compensation authorized under 38 U.S.C. 314(p).

(ii) The veteran meets the requirements for entitlement to the regular aid and attendance allowance in paragraph (a) of this section.

(iii) The veteran needs a "higher level of care" (as defined in paragraph (b)(2) of this section) than is required to establish entitlement to the regular aid and attendance allowance, and in the absence of the provision of such higher level of care the veteran would require hospitalization, nursing home care, or other residential institutional care.

(iv) The veteran's need for a higher level of care than is required to establish entitlement to the regular aid and attendance allowance is determined by a Veterans Administration physician or, in areas where no Veterans Administration physician is available, by a physician carrying out such function under contract or fee arrangement based on an examination by such physician.

(2) Need for a higher level of care shall be considered to be need for personal health-care services provided on a daily basis in the veteran's home by a person who is licensed to provide such services or who provides such services under the regular supervision of a licensed health-care professional. Personal health-care services include (but are not limited to) such services as physical therapy, administration of injections, placement of indwelling catheters, and the changing of sterile dressings, or like functions which require professional health-care training or the regular supervision of a trained health-care professional to perform. A licensed health-care professional includes (but is not limited to) a doctor of medicine or osteopathy, a registered nurse, a licensed practical nurse, or a physical therapist licensed to practice by a State or political subdivision thereof.

(3) The term "under the regular supervision of a licensed health-care professional", as used in paragraph (b)(2) of this section, means that an unlicensed person performing personal health-care services is following a regimen of personal health-care services prescribed by a health-care professional, and that the health-care professional consults with the unlicensed person providing the health-care services at least once each month to monitor the prescribed regimen. The consultation need not be in person; a telephone call will suffice.

(4) A person performing personal health-care services who is a relative or other member of the veteran's household is not exempted from the requirement that he or she be a licensed health-care

professional or be providing such care under the regular supervision of a licensed health-care professional.

(5) The provisions of paragraph (b) of this section are to be strictly construed. The higher level aid-and-attendance allowance is to be granted only when the veteran's need is clearly established and the amount of services required by the veteran on a daily basis is substantial. (38 U.S.C. 210(c), 314(r)(2).)

(c) *Attendance by relative.* The performance of the necessary aid and attendance service by a relative of the beneficiary or other member of his or her household will not prevent the granting of the additional allowance.

**§ 3.382 [Amended]**

12. Section 3.382 is amended as follows:

(a) By adding the words "or she" after the word "he" in the third sentence of paragraph (a).

(b) By deleting the words "his service support his allegation," and inserting "his or her service support his or her allegation," in the first sentence of paragraph (b).

**§ 3.383 [Amended]**

13. Section 3.383 is amended by adding the words "or her" after the word "his" in paragraphs (a), (b) and (c).

14. Section 3.384 is added to read as follows:

**§ 3.384 Additional compensation for non-service-connected loss or loss of use of paired extremity.**

(a) *General.* Subject to the conditions of this section a veteran who has service-connected loss or loss of use of one extremity and non-service-connected loss or loss of use of the paired extremity is entitled to increased compensation in the amount specified in 38 U.S.C. 314(t).

(b) *Entitlement Criteria.* (1) The service-connected loss or loss of use of an extremity is rated at 40 percent or more disabling; and

(2) The non-service-connected loss or loss of use of the paired extremity would be rated 40 percent or more disabling if service connected; and

(3) The non-service-connected loss or loss of use of the paired extremity is not the result of the veteran's own willful misconduct; and

(4) The veteran is entitled to receive compensation at any rate under 38 U.S.C. 314 (a) through (i) and special monthly compensation under 38 U.S.C. 314(k).

(c) *Effect of judgment or settlement.* If a veteran receives any money or property pursuant to an award in a

judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the non-service-connected loss or loss of use of the paired extremity upon which entitlement under this paragraph is based, the increased compensation payable by reason of this paragraph shall not be paid for any month following the month in which any such money or property is received until such time as the total amount of the increased compensation that would otherwise have been payable equals the total of the amount of any such money received and the fair market value of any such property received.

(d) *Social security and workers' compensation.* Benefits received under social security or workers' compensation are not subject to recoupment under paragraph (c) of this section even though such benefits may have been awarded pursuant to a judicial proceeding.

(e) *Veterans duty to report.* Any person entitled to increased compensation under this paragraph shall promptly report to the Veterans Administration the receipt of any money or property received pursuant to a judicial proceeding based upon, or a settlement or compromise of, any cause of action or other right of recovery for damages for the non-service-connected loss or loss of use of the paired extremity upon which entitlement under this section is based. The amount to be reported is the total of the amount of money received and the fair market value of property received. Expenses incident to recovery, such as attorney's fees, may not be deducted from the amount to be reported.

15. In § 3.552, the heading is changed and paragraphs (a)(1), (b)(2) and (g) are revised to read as follows:

**§ 3.552 Adjustment of allowance for aid and attendance.**

(a)(1) When a veteran is hospitalized, additional compensation or increased pension for aid and attendance will be discontinued as provided in paragraph (b) of this section except as to disabilities specified in paragraph (a)(2) of this section.

\* \* \* \* \*

(b) \* \* \*  
(2) When a veteran is hospitalized at the expense of the United States Government, the additional aid and attendance allowance authorized by 38 U.S.C. 314(r) (1) or (2) will be discontinued effective the last day of the month following the month in which the veteran is admitted for hospitalization.

\* \* \* \* \*

(g) Where a veteran entitled to one of the rates under 38 U.S.C. 314 (l), (m), or (n) by reason of anatomical losses or losses of use of extremities, blindness (visual acuity 5/200 or less or light perception only), or anatomical loss of both eyes is being paid compensation of \$1,408 because of entitlement to another rate under section 314(l) on account of need for aid and attendance the compensation will be reduced while hospitalized to the following:

(1) If entitlement is under section 314(l) and in addition there is need for regular aid and attendance for another disability, the award during hospitalization will be \$1,107 since the disability requiring aid and attendance is 100 percent disabling. (38 U.S.C. 314(p))

(2) If entitlement is under section 314(m), \$1,258.

(3) If entitlement is under section 314(n), \$1,408 would be continued, since the disability previously causing the need for regular aid and attendance would then be totally disabling entitling the veteran to the maximum rate under 38 U.S.C. 314(p).

\* \* \* \* \*

**§ 3.556 [Amended]**

16. Section 3.556(a)(1) is amended by deleting the words "wife (husband)" and inserting the word "spouse" in the second sentence.

17. In § 3.802, paragraph (b) is revised to read as follows:

**§ 3.802 Medal of Honor.**

\* \* \* \* \*

(b) An award of special pension of \$200 monthly (prior to Jan. 1, 1979, \$100 monthly) will be made as of the date of filing of the application with the Secretary concerned. The special pension will be paid in addition to all other payments under laws of the United States. However, a person awarded more than one Medal of Honor may not receive more than one special pension. (38 U.S.C. 562)

**§ 3.803 [Amended]**

18. Section 3.803 is amended by deleting "6159" in the citation following paragraph (a).

**§ 3.805 [Amended]**

19. Section 3.805 is amended by deleting the words "widows (widowers)" and inserting the words "surviving spouses" in the heading and in the introductory portion preceding paragraph (a).

20. In § 3.808, the introductory portion preceding paragraph (a) is revised to read as follows:

**§ 3.808 Automobiles or other conveyances; certification.**

A certification of eligibility for financial assistance in the purchase of one automobile or other conveyance in an amount not exceeding \$3,800 (including all State, local, and other taxes where such are applicable and included in the purchase price) and of basic entitlement to necessary adaptive equipment will be made where the claimant meets the requirements of paragraphs (a), (b) and (c) of this section.

\* \* \* \* \*

21. In § 3.1600, paragraphs (a), (c) and (g) are revised to read as follows:

**§ 3.1600 Payment of burial expenses of deceased veterans**

\* \* \* \* \*

(a) *Wartime veterans.* When a veteran of any war dies, an amount not to exceed \$300 (\$1,100 if death is service-connected) (where entitlement is based on § 3.8 (c) or (d), at a rate in Philippine pesos equivalent to \$150 or \$550 if death is service-connected) is payable on the burial and funeral expenses and transportation of the body to the place of burial, if otherwise entitled within the further provisions of §§ 3.1600 through 3.1611. For this purpose the period of any war is as defined in § 3.2, except that World War I extends only from April 6, 1917, through November 11, 1918, or if the veteran served with the United States military forces in Russia, through April 1, 1920. (38 U.S.C. 902; 907; 107(a))

\* \* \* \* \*

(c) *Death while properly hospitalized.* If a person dies while properly hospitalized by the Veterans Administration, there is payable an allowance not to exceed \$300 (\$1,100 if he or she died of a service-connected disability) for the actual cost of funeral and burial, and an additional amount for transportation of the body to the place of burial. See § 3.1605. (38 U.S.C. 903; 907)

\* \* \* \* \*

(g) *Transportation expenses for burial in national cemetery.* Where a veteran dies as the result of a service-connected disability, or at the time of death was in receipt of disability compensation (or but for the receipt of military retired pay or non-service-connected disability pension would have been entitled to disability compensation at time of death) there is payable, in addition to the burial allowance (either \$300 or \$1,100 if cause of death was service connected), an additional amount for payment of the cost of transporting the

body to a national cemetery for burial. This amount may not exceed the cost of transporting the body from the veteran's place of death to the national cemetery nearest the veteran's last place of residence in which burial space is available. The amounts payable under this paragraph are subject to the limitations set forth in §§ 3.1604 and 3.1606.

22. In § 3.1601, paragraph (a)(1)(i) is revised to read as follows:

**§ 3.1601 Claims and evidence.**

(a) Claims. \* \* \*

(1) Claims for burial allowance may be executed by:

(i) The funeral director, if entire bill or any balance is unpaid (if unpaid bill is under \$300 only amount of unpaid balance will be payable to the funeral director); or

23. In § 3.1604, the introductory portion of paragraph (a) preceding subparagraph (1) and paragraph (b)(2) are revised to read as follows:

**§ 3.1604 Payments from non-Veterans Administration sources.**

(a) *Contributions or payments by public or private organizations.* When contributions or payments on the burial expenses have been made by a State, any agency or political subdivision of the United States or of a State, or the employer of the deceased veteran only the difference between the entire burial expenses and the amount paid thereon by any of these agencies or organizations, not to exceed \$300 (\$1,100 if death was service connected), will be authorized. Contributions or payments by any other public or private organization such as a lodge, union, fraternal or beneficial organization, society, burial association or insurance company, will bar payment of the burial allowance if such allowance would revert to the funds of such organization or would discharge such organization's obligation without payment.

(b) *Payment by Federal agency.* \* \* \*

(2) A provision in any Federal law or regulation permitting the application of funds due or accrued to the credit of the deceased toward the expenses of funeral, transportation and interment (such as Social Security benefits), as distinguished from a provision specifically prescribing a definite allowance for such purpose, will not bar payment of the burial allowance. In such cases only the difference between the total burial expense and the amount

paid thereon under such provision, not to exceed \$300 will be authorized.

**§ 3.1605 [Amended]**

24. Section 3.1605 is amended by adding the words "or she" after the word "he" in the first sentence of the introductory portion preceding paragraph (a).

[FR Doc. 79-11891; Filed 4-16-79; 8:45 am]

BILLING CODE 8320-01-M

**VETERANS ADMINISTRATION**

**38 CFR Part 36**

**Implementation of New Legislation—Mobile Homes**

**AGENCY:** Veterans Administration.

**ACTION:** Final Regulations

**SUMMARY:** The VA (Veterans Administration) is amending its regulations relating to mobile home loans to authorize a loan guaranty of 50 percent of the loan amount not to exceed \$17,500, to provide for use of a veteran's remaining loan guaranty entitlement for purchase of a mobile home, to increase the maximum loan term for single-wide mobile home loans, and to eliminate the maximum loan amounts for the purchase of a mobile home or mobile home lot. An amendment also is being made to reflect VA compliance with the Equal Credit Opportunity Act. The amendments to the regulations published herein are primarily for the purpose of implementing those sections of the Veterans' Housing Benefits Act of 1978, as to the guaranteed loan program for mobile homes.

**EFFECTIVE DATE:** October 1, 1978.

**FOR FURTHER INFORMATION CONTACT:** Mr. George D. Moerman, Assistant Director for Loan Policy (264), Loan Guaranty Service, Veterans Administration, Washington, D.C. 20420, 202-389-3042.

**SUPPLEMENTARY INFORMATION:** The Veterans' Housing Benefits Act of 1978 (Pub. L. 95-476, 92 Stat. 1497) revised and restructured section 1819 of title 38, United States Code, relating to the guaranty of mobile home loans. In general terms, the Act restructured the mobile home loan program along lines similar to the program for conventionally built homes.

The Administrator is now authorized to guarantee up to 50 percent of the principal amount of a mobile home loan not to exceed a maximum loan guaranty of \$17,500. The various statutory loan

maximums for mobile homes and mobile home lots have been repealed. The amendments to §§ 36.4202, 36.4204, 36.4205, 36.4209(e), and 36.4252(a) implement this statutory revision.

The Act also authorizes the Administrator to restore loan guaranty entitlement used for mobile home purposes when: (1) The property which was security for the loan has been disposed of by the veteran or has been destroyed by fire or other natural hazard; and (2) the Administrator has been released from liability as to the loan, or if a loss has been suffered the loss has been paid in full. The Administrator also is authorized to restore a veteran's loan guaranty entitlement used for mobile home purposes if an immediate veteran-transferee has agreed to assume the outstanding balance on the mobile home loan and consented to the use of his or her entitlement to the extent the entitlement of the veteran-transferor had been used originally, and the veteran-transferee otherwise meets the requirements of chapter 37, title 38, United States Code. The statutory requirement that a veteran may have loan guaranty entitlement restored a single time for mobile home loan purposes has been repealed. Section 36.4203(a) has been amended to implement this change.

The previous statutory restriction that a veteran must have maximum loan guaranty entitlement available in order to secure a mobile home loan and the previous statutory restriction that a veteran, after securing a mobile home loan, could not use remaining entitlement for any other purpose until the mobile home loan had been paid in full, have both been repealed. The Administrator is thus now authorized to guarantee mobile home loans using a veteran's remaining loan guaranty entitlement except that a veteran who purchases a mobile home unit with a VA guaranteed loan may not use remaining entitlement to secure a loan for a second mobile home unit until the first unit is disposed of by the veteran or destroyed by fire or other natural hazard. Veterans who purchased a mobile home with a loan guaranteed by the VA may now purchase a conventional home with remaining entitlement, and veterans who purchased a conventional home with a loan guaranteed by the VA may now purchase a mobile home with a loan secured by remaining loan guaranty entitlement. In addition, a veteran who purchased a mobile home unit may purchase a mobile home lot for that unit with a loan secured by remaining loan guaranty entitlement.

The amendment to § 36.4203 (b) and (c) will implement this statutory revision.

The Administrator is now also authorized to increase the maximum loan term for the purchase of a single-wide mobile home or for the purchase of a lot on which to place a mobile home already owned by the veteran. The new loan term will be 15 years and 32 days for these types of loans. Previously such loans had a maximum loan term of 12 years and 32 days. The amendment to § 36.4204(a) will implement this change.

Section 36.4210 is amended to reflect Veterans Administration compliance with the Equal Credit Opportunity Act (Pub. L. 93-495, 88 Stat. 1521, Pub. L. 94-239, 90 Stat. 251).

Section 36.4207(d) is amended to reflect that the current mobile home standards are prescribed by the Administrator in lieu of the American National Standards Institute.

In addition, a minor editorial change has been made to § 36.4209 (b)(5) and (g) to revise the statutory citations.

Compliance with the provisions of section 1.12 of this chapter which requires publication of proposed regulations prior to final adoption is waived in this instance. The substantive changes implement statutory mandates. Those changes not required by statute are editorial rather than substantive. Compliance with section 1.12 would serve little purpose and would not be in the public interest.

The amendments are adopted under authority granted to the Administrator by section 1819(g) of title 38, United States Code.

Approved: April 11, 1979.

By direction of the Administrator.

Rufus H. Wilson,  
Deputy Administrator.

1. In § 36.4202, paragraph (1) is revoked.

#### § 36.4202 Definitions.

(1) [Revoked]

2. Section 36.4203 is revised to read as follows:

#### § 36.4203 Eligibility of the veteran for the mobile home loan benefit under 38 U.S.C. 1819.

(a) To be eligible for the mobile home loan benefit a veteran must have loan guaranty entitlement for mobile home purposes available for use. Notwithstanding the provisions of § 36.4205(e), the Administrator may exclude the amount of guaranty entitlement used for any guaranteed mobile home loan provided:

(1) The property which served as security for the loan has been disposed of by the veteran, or has been destroyed by fire or other natural hazard; and

(2) The loan has been repaid in full, or the Administrator has been released from liability as to the loan, or if the Administrator has suffered a loss on said loan, such loss has been paid in full; or

(3) An immediate veteran-transferee has agreed to assume the outstanding balance on the loan and consented to the use of his or her entitlement to the extent the entitlement of the veteran-transferor had been used originally, and the veteran-transferee otherwise meets the requirements of chapter 37, title 38, United States Code.

The Administrator may, in any case involving circumstances deemed appropriate, waive either or both of the requirements set forth in paragraph (a)(1) or (2) of this section.

(b) A veteran may use his or her remaining home loan guaranty entitlement for any purpose authorized by 38 U.S.C. 1810, 1811, or 1819 except that a veteran who has purchased a mobile home unit may not purchase a second mobile home unit until the unit which secured the first loan has been disposed of by the veteran or has been destroyed by fire or other natural hazard.

(c) The available entitlement of a veteran will be determined by the Administrator as of the date of receipt of an application for guaranty of a mobile home loan or loan report. Such date of receipt shall be the date the application or loan report is date stamped into the Veterans Administration. Eligibility derived from the most recent period of service (1) shall cancel any unused entitlement derived from any earlier period of service, and (2) shall be reduced by the amount by which entitlement from service during any earlier period has been used to obtain a direct, guaranteed, or insured loan—

(i) On property which the veteran owns at the time of application; or

(ii) As to which the Administrator has incurred actual liability or loss, unless in the event of loss or the incurrence and payment of such liability by the Administrator the resulting indebtedness of the veteran to the United States has been paid in full. *Provided*, That if the Administrator issues or has issued a certificate of commitment covering the loan described in the application for guaranty or in the loan report, the amount and percentage of guaranty contemplated by the certificate of commitment shall not be

subject to reduction if the loan has been or is closed on a date which is not later than the expiration date of the certificate of commitment, notwithstanding that the Administrator in the meantime and prior to the issuance of the evidence of guaranty shall have incurred actual liability or loss on a direct, guaranteed, or insured loan previously obtained by the borrower. For the purposes of this paragraph, the Administrator will be deemed to have incurred actual loss on a guaranteed or insured loan if the Administrator has paid a guaranty or insurance claim thereon and the veteran's resultant indebtedness to the Government has not been paid in full, and to have incurred actual liability on a guaranteed or insured loan if the Administrator is in receipt of a claim on the guaranty or insurance or is in receipt of a notice of default. In the case of a direct loan, the Administrator will be deemed to have incurred an actual loss if the loan is in default. (38 U.S.C. 1819(b) (1) and (2) and (c)(4)).

3. Section 36.4204 is revised to read as follows:

#### § 36.4204 Loan purposes, maximum loan amounts and terms.

(a) A mobile home loan may be guaranteed if the loan is for one of the following purposes:

(1) To purchase a lot on which to place a mobile home already owned by the veteran;

(2) To purchase a single-wide mobile home;

(3) To purchase a single-wide mobile home and a lot on which to place such home;

(4) To purchase a double-wide mobile home; or

(5) To purchase a double-wide mobile home and lot on which to place such home;

(b) A loan for any of the purposes described in paragraph (a) of this section may include an amount determined by the Administrator to be appropriate to cover the cost of necessary preparation of a lot already owned or to be acquired by the veteran, including the costs of installing utility connections and sanitary facilities, of paving, and of constructing a suitable pad for the mobile home.

(c) The maximum permissible loan terms shall not exceed:

(1) 15 years and 32 days in the case of a loan to purchase a single-wide mobile home or a single-wide mobile home and lot;

(2) 15 years and 32 days in the case of a loan to purchase a lot on which to

place a mobile home already owned by the veteran;

(3) 20 years and 32 days in the case of a loan to purchase a double-wide mobile home or a double-wide mobile home and lot; or

(4) In the case of a used mobile home the maximum term set forth in paragraph (c)(1) or (3) of this section or the remaining physical life expectancy of the unit as established by the Administrator, whichever is less. (38 U.S.C. 1819(a) (1) and (2), (d)(1), (e)(4)(B))

(d) The loan amount in an individual case shall not exceed the following:

(1) In the case of a loan to purchase a new mobile home unit only, the loan amount shall not exceed the sum of the following:

(i) 120 percent of the figure produced by the following computation:

Subtract from the manufacturer's invoice cost the manufacturer's invoice cost of any components (furnishings, accessories, equipment) removed from the unit by the dealer. To the remainder add the dealer's cost for any components added by such dealer. The sum so obtained shall be the figure to be multiplied by the specified percentage.

(ii) 100 percent of the actual amount of fees and charges permitted in § 36.4232.

(2) In the case of a loan to purchase a new mobile home unit plus the cost of necessary site preparation where the veteran owns the lot, the loan amount shall be limited to the amount determined in paragraph (d)(1) of this section plus such costs of necessary site preparation as are approved by the Administrator.

(3) In the case of a loan to purchase a new mobile home unit plus the purchase of an undeveloped lot on which to place such home plus the cost of necessary site preparation, the loan amount shall be limited to the amount determined in paragraph (d)(1) of this section plus the reasonable value of the undeveloped lot as determined by the Administrator plus such costs of necessary site preparation as are approved by the Administrator.

(4) In the case of a loan to purchase a new mobile home unit plus the cost of a suitably developed lot on which to place such home, the loan amount shall be limited to the amount determined in paragraph (d)(1) of this section plus the reasonable value of the developed lot as determined by the Administrator.

(5) In the case of a loan to purchase a lot upon which will be placed a mobile home owned by the veteran the loan is limited to the reasonable value of a developed lot or the reasonable value plus such amount as is determined by the Administrator to be appropriate to

cover the cost of necessary site preparation for an undeveloped lot.

(6) In the case of a used mobile home the maximum loan may not exceed the reasonable value as established by the Administrator, plus:

(i) Actual fees or charges for required recordation of documents;

(ii) The amount of any documentary stamp taxes levied on the transaction;

(iii) The amount of State and local taxes levied on the transaction; and

(iv) The premium for customary physical damage insurance and vendor's single interest coverage on the mobile home for an initial policy term of not to exceed 5 years.

(e) The cost of the transaction which will not be paid from the proceeds of the loan must be paid by the veteran in cash from the veteran's own resources.

Closing costs and prepaid items incident to the real estate portion of any mobile home loan must be paid in cash and may not be included in the loan amount.

4. Section 36.4205 is revised to read as follows:

#### § 36.4205 Computation of guaranty.

(a) The amount of guaranty in respect to a loan guaranteed under 38 U.S.C. 1819 shall be fifty (50) percent of the original principal amount of the loan or \$17,500, whichever is less.

(b) Subject to the provisions of paragraph (c) of § 36.4203, the following formulas will determine the amount of guaranty entitlement which remains available to an eligible veteran after prior use of entitlement:

(1) If a veteran previously secured a nonrealty (business) loan, the amount of nonrealty entitlement used is doubled and subtracted from \$25,000. The sum remaining is the amount of available entitlement for use not to exceed \$17,500 for mobile home purposes.

(2) If a veteran previously secured a realty (home) loan, the amount of realty (home) loan entitlement used is subtracted from \$25,000. The sum remaining is the amount of available entitlement for use not to exceed \$17,500 for mobile home purposes.

(3) If a veteran previously secured a mobile home loan, the amount of entitlement used for mobile home purposes is subtracted from \$25,000. The sum remaining is the amount of available entitlement for use for home loan purposes only. To determine the amount of additional entitlement available for mobile home purposes, the amount of entitlement previously used for mobile home purposes is subtracted from \$17,500. The sum remaining is the amount of available entitlement for use for mobile home purposes.

(c) For the purpose of computing the remaining guaranty benefit to which a veteran is entitled, mobile home and mobile home lot loans guaranteed prior to October 1, 1978, shall be taken into consideration as if made subsequent thereto, and the veteran's entitlement will be reduced by the amount of the Administrator's guaranty issued in the particular loan transaction.

(d) A guaranty is reduced or increased pro rata with any deduction or increase in the amount of the guaranteed indebtedness, but in no event will the amount payable on a guaranty exceed the amount of the original guaranty or the percentage of the indebtedness corresponding to that of the original guaranty.

(e) The amount of any guaranty for a mobile home or mobile home lot loan shall be charged against the original or remainder of the borrower's guaranty benefit available for mobile home purposes. Complete or partial liquidation, by payment or otherwise, of the veteran's guaranteed indebtedness does not increase the remainder of the guaranty benefit, if any, otherwise available to the veteran. When the maximum guaranty legally available to a veteran for mobile home purposes shall have been granted, no further guaranty for mobile home purposes shall be available to the veteran.

(f) The amount of guaranty entitlement, available and unused, of an eligible unmarried surviving spouse (whose eligibility does not result from his or her own service) is determinable in the same manner as in the case of any veteran, and any entitlement which the decedent (who was his or her spouse) used shall be disregarded. A certificate as to the eligibility of such surviving spouse, issued by the Administrator, shall be a condition precedent to the guaranty or insurance of any loan made to a surviving spouse in such capacity. (38 U.S.C. 1801(a)(2), 1819(c)(4))

(g) Any evidence of guaranty issued by the Administrator in respect to such loan shall be conclusive evidence of the eligibility of the loan for guaranty and of the amount of such guaranty *Provided, however,* That the Administrator may establish against the original lender, defenses based on fraud or material misrepresentation and that the Administrator may by regulations in force at the date of such issuance establish partial defenses to the amount payable on the guaranty.

5. In § 36.4207, paragraph (d) is revised to read as follows:

**§ 36.4207 Mobile home standards.**

To qualify for purchase with a guaranteed loan a mobile home must

(d) Comply with the specifications in effect at the time the loan is made that are prescribed by the Administrator. (38 U.S.C. 1819(h)(1))

6. In § 36.4209, paragraph (b)(5), (e) and (g) are revised to read as follows:

**§ 36.4209 Reporting requirements.**

(b) \* \* \*

(5) That the loan conforms otherwise to the applicable provisions of 38 U.S.C. chapter 37 and § 36.4200 series.

(e) Subject to compliance with the regulations concerning guaranty of mobile home loans to veterans, the Certificate of Guaranty will be issuable within the available entitlement of the veteran on the basis of the loan reported. No certificate of commitment shall be issued, and no loan shall be guaranteed, unless the lender, the veteran, and the loan are shown to be eligible; nor shall guaranty be issued on any mobile home loan unless the Administrator determines that there has been compliance by the veteran with the certification requirements of 38 U.S.C. 1804(c). (38 U.S.C. 1819(c)(2), (e)(5))

(g) Approval by the Administrator pursuant to 38 U.S.C. 1819(c)(1) is required before a lender may close mobile home loans or mobile home lot loans on the automatic basis. Evidence of guaranty will be issuable if the loan closed on the automatic basis is reported to the Administrator within 30 days of full disbursement, and upon certification of the lender that no default exists thereunder which has continued for more than 30 days and that the loan complies with paragraphs (b)(2), (3), (4), and (5), (e), and (f) of this section. Upon the failure of the lender to report in accordance with this paragraph the loan will not be eligible for guaranty unless the lender submits with the report a certification that the loan is not in default and an explanation as to why the loan was not timely reported. (38 U.S.C. 1819 (c)(1) and (g))

7. Section 36.4210 is revised to read as follows:

**§ 36.4210 Joint loans.**

(a) Except as provided in paragraph (b) of this section, the prior approval of the Administrator is required in respect to any mobile home 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. The amount of the guaranty 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. chapter 37 and the regulations concerning guaranty of mobile home loans to veterans.

(b) Notwithstanding the provisions of paragraph (a) of this section, the joinder of the spouse of a veteran-borrower in the ownership of property shall not require prior approval or preclude the issuance of a guaranty based upon the entire amount of the loan. If both spouses be eligible veterans, either or both, within permissible maxima, may utilize available guaranty entitlement.

(c) For the purpose of determining the rights and the liabilities of the Administrator with respect to a loan subject to paragraph (a) of this section, credits legally applicable to the entire loan shall be applied as follows:

(1) Prepayments made expressly for credit to that portion of the indebtedness allocable to the veteran 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.

(2) Proceeds of the sale or other liquidation of the security shall be applied ratably to the respective portions of the loan, such portion of the proceeds as represents the interest of the veteran being applied to that portion of the loan allocable to such veteran. (38 U.S.C. 1803(c)(1))

8. In § 36.4252, subparagraphs (5) and (6) of paragraph (a) are revoked and the former subparagraph (7) is redesignated paragraph (5) as follows:

**§ 36.4252 Loans for purchase of mobile home and for the acquisition of a lot.**

(a) A loan to purchase a mobile home may include funds (or be augmented by a separate loan) to finance all or part of the cost of acquisition by the veteran of a lot on which to place such mobile home and any such loan shall be eligible for guaranty, provided that

(5) The loan conforms otherwise to the requirements of the § 36.4200 series.

[FR Doc. 79-11892 Filed 4-16-79; 8:45 am]

BILLING CODE 8320-01-M

**GENERAL SERVICES ADMINISTRATION****41 CFR Chapter 1****Validation of Performance in Automated Data Processing (ADP) Systems and Services Procurements**

**AGENCY:** General Services Administration.

**ACTION:** Temporary regulation.

**SUMMARY:** This regulation prescribes interim policies restricting the use of benchmarks in low value procurements and of remote terminal emulation, a benchmarking technique. This technique is used to evaluate the anticipated performance of ADP systems and services for which it would be impractical to conduct live test demonstrations of a total proposed data communications network. The increased use of emulation by both Government and industry and the growing complexity of data networks were responsible for the initiation of a joint Government-industry study of the use of remote terminal emulation in the procurement of ADP systems and services. The General Services Administration is endeavoring to reconcile industry emulation capabilities and Government projections of future emulation benchmark test requirements. The intended effect of this regulation is to provide for the use of benchmarking techniques for performance validations that recognize the current state of technology and are practicable, fair, and equitable.

**DATES:** Effective date: This regulation is effective May 10, 1979, but may be observed earlier.

Expiration date: This regulation will continue in effect until canceled.

Comments due on or before: July 10, 1979.

**ADDRESS:** Comments should be addressed to: Acting Director, Federal Procurement Regulations Directorate (APR), General Services Administration, Washington, DC 20406.

**FOR FURTHER INFORMATION CONTACT:** Philip G. Read, Acting Director, Federal Procurement Regulations Directorate, 703-557-8947.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))