

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900-AG30

Determinations of Incompetency

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) has amended its regulation concerning determinations of incompetency and competency. This change brings consistency into the language of the regulation and ensures that long-standing VA policy is accurately stated. The effect of this action will be consistent application of the regulation in rating decisions involving the issue of incompetency. **EFFECTIVE DATE:** The effective date is August 13, 1993.

FOR FURTHER INFORMATION CONTACT: Steven Thornberry, Consultant, Regulations Staff (211B), Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 233-3005.

SUPPLEMENTARY INFORMATION: The definition of a mentally incompetent person for VA purposes is one who, because of injury or disease, lacks the mental capacity to contract or to manage his or her own affairs, including disbursement of funds without limitation (38 CFR 3.353(a)). This definition represents long-standing VA policy. An inconsistency exists in the language of § 3.353(d), however, which requires a presumption in favor of competency in situations where doubt arises as to whether a beneficiary is capable of administering his or her funds (emphasis added). This provision assumes a less comprehensive definition of incompetency.

Section 3.353(d) was designed to avoid appointing a fiduciary except in a situation where it is clearly in a beneficiary's best interest to do so because of mental incompetency. Where doubt arises regarding incompetency, the doubt is to be resolved in the beneficiary's favor. Since ratings of incompetency are based on the definition in § 3.353(a) and can result in appointment of a fiduciary, to limit consideration under § 3.353(d) only to the administration of funds creates internal inconsistency within the regulation and could lead to discrepancies in its application in individual cases. The regulatory history, in fact, shows that the language of § 3.353(d) predates the definition of

§ 3.353(a) and was never amended to conform with it. We, therefore, are amending § 3.353(d) to add a provision regarding a beneficiary's mental capacity to contract or to manage his or her own affairs, to change "administering" funds to "disbursement" of funds, and to add the phrase "without limitation" to the provision concerning disbursement of funds.

These changes will bring paragraph (d) into conformity with paragraph (a) and will assist VA rating boards in making consistent determinations when the issue of incompetency arises. We also are amending § 3.353(d) to clarify that by "doubt" whether a beneficiary is competent we mean "reasonable doubt." This change accords with VA's doctrine of reasonable doubt as defined in § 3.102 and represents in any event the intent of § 3.353(d) in this regard. Since these amendments to § 3.353 simply ensure internal consistency within the regulation as well as consistency with established VA policy, publication as a proposed rule is not necessary.

The Secretary hereby certifies that these regulatory amendments will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. The reason for this certification is that these amendments would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that these regulatory amendments are non-major for the following reasons:

(1) They will not have an annual effect on the economy of \$100 million or more;

(2) They will not cause a major increase in costs or prices;

(3) They will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

There is no affected Catalog of Federal Domestic Assistance program number.

List of Subjects in 38 CFR Part 3:

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

Approved: May 20, 1993.

Jesse Brown,
Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR Part 3 is amended to read as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. In § 3.353, paragraph (d) is revised to read as follows:

§ 3.353 Determinations of incompetency and competency.

* * * * *

(d) *Presumption in favor of competency.* Where reasonable doubt arises regarding a beneficiary's mental capacity to contract or to manage his or her own affairs, including the disbursement of funds without limitation, such doubt will be resolved in favor of competency (see § 3.102 on reasonable doubt).

* * * * *

§ 3.353 [Amended]

3. Following § 3.353 an authority citation is added to read as follows:

(Authority: 38 U.S.C. 501(a))

[FR Doc. 93-16596 Filed 7-13-93; 8:45 am]
BILLING CODE 8320-01-Z

38 CFR Part 3

RIN 2900-AF88

Evidence Requirements

AGENCY: Department of Veterans Affairs.
ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) has amended its adjudication regulations regarding the evidence requirements to establish military service and dependency. This amendment is necessary to expedite payment of benefits in certain instances. The intended effect of this amendment is to improve the efficiency and timeliness of claims processing. **EFFECTIVE DATE:** These amendments are effective July 14, 1993.

FOR FURTHER INFORMATION CONTACT: John Bisset, Jr., Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-3005.

SUPPLEMENTARY INFORMATION: VA published a proposal to amend 38 CFR 3.203(c) and 3.205(a)(1) in the Federal Register of October 23, 1992 (57 FR 48350-52). Interested persons were invited to submit written comments, suggestions or objections on or before November 23, 1992. As no comments were received, the proposed amendments are adopted with a minor technical addition to clarify that the uncertified marriage certificate supporting the certified statement of the deceased veteran must be part of the VA record on the date of the veteran's death.

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. The reason for this certification is that this amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that this regulatory amendment is non-major for the following reasons:

- (1) It will not have an annual effect on the economy of \$100 million or more.
- (2) It will not cause a major increase in costs or prices.
- (3) It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance program numbers are 64.101, 64.105 and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

Approved: February 25, 1993.

Jesse Brown,
Secretary of Veterans Affairs.

For the reasons set out in preamble, 38 CFR part 3 is amended as set forth below:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A, continues to read as follows:

Authority: 105 Stat. 386; 38 U.S.C. 501(a), unless otherwise noted.

2. In § 3.203, paragraph (c) is amended by adding a new second sentence to read as follows:

§ 3.203 Service records as evidence of service and character of discharge.

* * * * *

(c) *Verification from service department.* * * * However, payment of nonservice-connected burial benefits may be authorized, if otherwise in order, based upon evidence of service with VA relied upon to authorize payment of compensation or pension during the veteran's lifetime, provided that there is no evidence which would serve to create doubt as to the correctness of that service evidence. * * *

3. In § 3.205, paragraphs (a) introductory text and (a)(1) are revised to read as follows:

§ 3.205 Marriage.

(a) *Proof of marriage.* Marriage is established by one of the following types of evidence:

(1) Copy of the public record of marriage, certified or attested, or by an abstract of the public record, containing sufficient data to identify the parties, the date and place of the marriage, and the number of prior marriages by either party if shown on the official record, issued by the officer having custody of the record or one authorized to act for such officer bearing the seal of such officer, or otherwise properly identified, or a certified copy of the church record of marriage. However, payment of death benefits to a surviving spouse may be authorized, if otherwise in order, based upon an uncertified copy of the public record of marriage which was part of the VA record on the date of the veteran's death, and which substantiates the veteran's certified statement that VA relied upon to establish the claimant as the spouse for compensation or pension payments which the veteran was entitled to receive at the time of his or her death, provided that there is no evidence which would serve to create doubt as to the correctness of that copy.

* * * * *

[FR Doc. 93-16599 Filed 7-13-93; 8:45 am]

BILLING CODE 8320-01-21-M

38 CFR Part 36

RIN 2900-AC85

Loan Guaranty: Loans to Purchase Manufactured Homes

AGENCY: Department of Veterans Affairs.

ACTION: Final regulations.

SUMMARY: The Department of Veterans Affairs (VA) is amending its manufactured home loan guaranty regulations (4200 series) to comply with certain provisions of the Veterans' Home Loan Program Improvements and Property Rehabilitation Act of 1987, as amended by the Veterans' Benefits Amendments of 1989, and the Omnibus Budget Reconciliation Act of 1990. These amendments will change the manufactured home loan program to comply with these laws. Additional changes are being made concerning computation and filing of claims, required insurance coverage, invoicing practices, volume rebates, items which may be included in the loan amount, automatic underwriting authority and definition of terms. The amendments will have the effect of updating the VA manufactured home loan program to reflect current industry practices.

EFFECTIVE DATE: These regulations are effective August 13, 1993.

FOR FURTHER INFORMATION CONTACT:

Judith A. Caden, Assistant Director for Loan Policy (264), Loan Guaranty Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-3042.

SUPPLEMENTARY INFORMATION: VA is incorporating into its manufactured home loan regulations several changes to comply with provisions of Public Law 100-198, The Veterans' Home Loan Program Improvements and Property Rehabilitation Act of 1987, as amended by Public Law 100-253, The Veterans' Home Loan Program Amendments of 1988, and Public Law 101-508, the Omnibus Budget Reconciliation Act of 1990. Additional regulatory changes are also being made as a result of an extensive review of the VA manufactured home loan program.

Major changes which VA hereby incorporates into the manufactured home loan guaranty regulations by these amendments are: (1) An increase in the maximum amount of entitlement from \$27,500 to \$36,000; (2) a change in the percentage of the loan that may be guaranteed; (3) a downpayment requirement; (4) revision of the occupancy requirements; (5) revision of the requirements for refinancing loans on manufactured homes; and (6) a new

optional procedure for filing claims upon receipt of VA's resale price estimate. All of the above changes implement statutory revisions and have been accomplished administratively. Additional changes affecting insurance coverage, invoicing practices, volume rebates, the computation and filing of claims, and items which may be included in the loan, are being made as a result of an extensive review of the VA manufactured home loan program.

On October 16, 1992, VA published in the *Federal Register* (57 FR 47433) proposed regulations on the VA manufactured home loan guaranty program. No comments were received to the proposed regulations. Accordingly, the regulations are adopted as originally proposed.

The Secretary hereby certifies that these regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, title 5, United States Code, sections 601-612. Pursuant to 5 U.S.C. 605(b), these regulations are exempt from the initial and final regulatory analysis requirements of sections 603 and 604.

These regulations have been reviewed under Executive Order 12291, entitled Federal Regulations, and are not considered major regulatory changes as defined in the Executive Order. These regulations will not impact the public or private sectors as major rules. They will not have an annual effect on the economy of \$100 million or more and will not cause a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions; nor will they have other significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Paperwork Reduction Act

Section 36.4204 of this regulatory amendment contains information collection requirements. Public reporting burden for this collection of information is estimated to be one-half hour per response with a total of 50 hours (100 respondents annually). This information collection requirement was approved by the Office of Management and Budget under OMB control number 2900-0534.

Catalog of Federal Domestic Assistance Program Number 64.119.

List of Subjects in 38 CFR Part 36

Condominiums, Handicapped, Housing loan programs—housing and community development, Manufactured homes, Veterans.

Approved: March 19, 1993.

Jesse Brown,
Secretary of Veterans Affairs.

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

PART 36—LOAN GUARANTY

1. The authority citation for part 36, §§ 36.4201 through 36.4287 is revised to read as follows:

Authority: Sections 36.4201 through 36.4287 issued under 38 U.S.C. 501, 3712.

2. In § 36.4202, remove the definition of *Manufacturer's invoice cost* and add, in its place, a definition of *Manufacturer's invoice and add the definition Wholesale (base) price list* to read as follows:

§ 36.4202 Definitions.

* * * * *

Manufacturer's invoice. A document, issued by a manufacturer and provided with a manufactured home to a retail dealer, acceptable in form and content to the Secretary which indicates the wholesale (base) price at the factory of the manufactured home model or series including any furnishings, equipment and accessories installed by the manufacturer, net of all rebates to the dealer. The following certification or a reasonable facsimile thereof, signed by an authorized representative of the manufacturer, must appear on the invoice:

"The undersigned certifies that the manufacturer's invoice price shown on this invoice reflects the dealer's cost at point of manufacture, exclusive of any and all freight or transportation charges, net of any and all discounts, bonuses, refunds, rebates (including volume rebates), prizes or anything of value which will inure to the benefit of the dealer at the time of purchase or at any future date."

* * * * *

Wholesale (base) price list. The price list(s) as periodically amended, published and distributed by a home manufacturer to all retail dealers in a given marketing area, quoting the actual wholesale (base) price at the factory for specific models or series of manufactured homes, itemized options, itemized furniture, and specialty items offered for sale to such dealers during a specified period of time. All such wholesale (base) prices shall exclude any costs of trade association fees or

charges, discounts, refunds, rebates, prizes, loan discount points or other financing charges, or anything else of more than a nominal value of \$10 which will inure to the benefit of a dealer and/or home purchaser at any date, as required to be disclosed in the manufacturer's invoice. Each price list and amendment shall be retained by the manufacturer for a minimum period of six years from the date of publication to be available to VA and other Federal agencies upon request.

3. Section 36.4204 is amended by removing the period at the end of paragraph (a)(7) and adding new text; by redesignating paragraphs (b), (c) and (e) as paragraphs (d), (e) and (g), respectively; by removing the words "will not" in the first sentence of newly designated paragraph (g) and adding, in their place, the word "cannot"; and by adding new paragraphs (b), (c) and (f); to read as follows:

§ 36.4204 Loan purposes, maximum loan amounts and terms.

(a) * * *

(7) * * * provided the amount of the loan to refinance does not exceed an amount equal to 95 percent of the reasonable value of the manufactured home securing the loan, as determined by the Secretary.

(b) In the case of a loan to purchase a new manufactured home unit only, the loan amount shall not exceed the lesser of an amount equal to 95 percent of the purchase price of the property securing the loan or the amount computed in paragraph (c), of this section, provided the total loan amount does not exceed 145 percent of the manufacturer's invoice.

(c) For all manufactured home loans, the maximum loan amount is as follows:

(1) In the case of a loan to purchase a new manufactured home unit only, the loan amount is to be computed as the sum of:

(i) One hundred twenty-five (125) percent of the figure produced by this 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; and

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

(2) A loan to purchase a lot upon which a manufactured home owned by the veteran will be placed is limited to

the reasonable value of a developed lot or the reasonable value plus such amount determined by the Secretary to be appropriate to cover the cost of necessary site preparation for an undeveloped lot.

(3) The maximum loan amount for a used manufactured home may not exceed the reasonable value as established by the Secretary, plus:

- (i) Actual fees or charges for required recordation of documents;
- (ii) The amount of any documentary stamp taxes levied on the transactions;
- (iii) The amount of State and local taxes levied on the transactions; and
- (iv) The premium for customary physical damage insurance and vendor's single interest coverage on the manufactured home for an initial policy term not to exceed one year.

(4) In the case of an interest rate reduction refinancing loan (38 U.S.C. 3712(a)(1)(F)) the maximum loan may not exceed the sum of:

- (i) The balance of the VA loan being refinanced;
- (ii) Closing costs as authorized by § 36.4232 or § 36.4254, as appropriate; and
- (iii) Allowable discounts, provided that:

(A) The loan application is submitted to the Secretary for prior approval;

(B) The amount of discount is disclosed to the Secretary and the veteran prior to the issuance of the certificate of commitment by the Secretary. This certificate of commitment shall specify the discount to be paid by the veteran, and this discount may not be increased once the commitment has been issued without the approval of the Secretary;

(C) The discount has been determined by the Secretary to be reasonable in amount; and

(5) For a loan to refinance a purchase money lien on a manufactured home and to purchase a lot (38 U.S.C. 3712(a)(1)(G)) on which the manufactured home is or will be placed:

(i) The loan must be secured by the same manufactured home which must be owned and occupied by the veteran as the veteran's home; and

(ii) The amount of the loan may not exceed an amount equal to the sum of:

(A) The purchase price of the lot, not to exceed the reasonable value thereof, as authorized by § 36.4252;

(B) The amount determined by the Secretary to be appropriate to cover the cost of necessary preparation of the lot;

(C) The balance of the loan being refinanced; and

(D) Closing costs, as authorized by § 36.4232 or § 36.4254, as appropriate, and a reasonable discount with respect

to that portion of the loan used to refinance the existing purchase money lien.

(iii) Allowable discounts may be charged to the veteran on the portion of the loan used to refinance the existing purchase money lien provided:

(A) The loan application is submitted to the Secretary for prior approval;

(B) The amount of discount to be paid on the unit portion of the loan is disclosed to the Secretary and the veteran prior to the issuance of the certificate of commitment by the Secretary. The certificate of commitment shall specify the discount to be paid by the veteran on the unit portion of the loan, and this discount may not be increased once the commitment has been issued without the approval of the Secretary; and

(C) The discount on the unit portion of the loan has been determined by the Secretary to be reasonable in amount.

(6) All powers of the Secretary under paragraphs (c) (4) and (5) of this section, except the authority to revise the discount after the commitment is issued, are hereby delegated to those officials designated by § 36.4221(b). The power of the Secretary to approve an increase in the discount on the unit portion of the loan after the commitment is issued is delegated to those officials designated by § 36.4220(a).

(f) An itemized list of all items included in the manufactured home loan as enumerated in § 36.4232 shall be provided to both the purchaser and the Secretary. At the time of loan origination an independent fee inspection shall be conducted to assure that all items included in the loan amount are accounted for and in place. A similar inspection will be conducted in the event of repossession immediately prior to repossession. The costs of the fee inspections may be included in the loan amount or the claim amount and charged to the borrower pursuant to the provisions of § 36.4232 (a) and (b).

[Information collection requirements contained in § 36.4204(f) were approved by the Office of Management and Budget under OMB control number 2900-0516]

§ 36.4205 [Amended]

4. Section 36.4205 is amended by removing the words "fifty (50)" in the first sentence of paragraph (a) and adding, in their place, the words "forty (40)"; by removing the dollar amount "\$27,500" in the first sentence of paragraphs (b)(1), (b)(2) and (b)(3) and

adding, in its place, the dollar amount "\$36,000"; and by removing the word "unmarried" in the first sentence of paragraph (f)(1) and adding, in its place, the word "unremarried".

5. In § 36.4206, the first sentence of paragraph (d)(1) is revised to read as follows:

§ 36.4206 Underwriting standards, occupancy, and non-discrimination requirements.

* * * * *

(d) * * *

(1) The veteran certifies, in such form as the Secretary shall prescribe, that he or she will personally occupy the property as his or her home or, if the veteran is on active duty status as a member of the Armed Forces and is for that reason unable to occupy the property, the veteran's spouse must certify that he or she will personally occupy the property as his or her home.

* * * * *

6. Section 36.4206 is further amended by removing the word "mobile" in the second sentence of paragraph (d)(1) and adding, in its place, the word "manufactured"; by adding a comma and the words "handicap, familial status," after the word "sex" in paragraph (d)(2)(i); and by removing the words "sex, religion," in paragraph (d)(2)(ii) and adding, in their place, the words "religion, sex, handicap, familial status,".

§ 36.4209 [Amended]

7. In § 36.4209, paragraph (b)(2) is amended by removing the semicolon at the end of the paragraph and adding, in its place, a comma and the words "including the itemized list required by § 36.4204(f);".

8. Section 36.4222 is revised to read as follows:

§ 36.4222 Hazard Insurance.

(a) The holder shall require insurance policies to be procured and maintained in an amount sufficient to protect the security against risks or hazards to which it may be subjected to the extent customary in the locality. The costs of such required insurance coverage may be paid for by the veteran. Only the costs for one year may be included in the loan amount.

(1) Flood insurance will be required, including coverage of the contents to the extent such contents are security for the loan, for all loans if the security is located in an area identified by the Federal Emergency Management Agency as having special flood hazards and in which the sale of flood insurance is available under the National Flood

Insurance Program. The amount of flood insurance required will be equal to the outstanding balance of the loan or the maximum limit of coverage available for the particular type of property under the National Flood Insurance Program, whichever is less.

(2) Broad Lender's Protection Insurance or its equivalent is required to protect against loss for any items missing from the manufactured home at time of repossession and to cover repossession expenses including, but not limited to, breakdown and transport charges, permit and export fees, and an amount, limited by the Secretary, of unpaid park rent.

(b) All monies under such policies covering payment of insured losses shall be applied to restoration of the security or to the loan balance.

9. In § 36.4223, paragraphs (a)(1) and (2) are revised to read as follows:

36.4223 Interest rate reduction refinancing loan.

(a) * * *

(1) The loan application must be submitted to the Secretary for prior approval unless the veteran is not charged a discount, in which case the loan application may be processed on the automatic basis;

(2) The loan must be secured by the same real property and/or personal property as the loan being refinanced and the veteran must own the manufactured home and/or manufactured home lot securing the loan; and

(i) Presently occupy or have previously occupied the manufactured home, a manufactured home on the lot securing the loan, or the manufactured home and the lot securing the loan as his or her home and must certify in such form as the Secretary shall prescribe that the veteran presently or has previously so occupied the manufactured home or a manufactured home on the lot; or

(ii) When a veteran is on Active Duty status as a member of the Armed Forces and is unable to occupy the manufactured home or a manufactured home on the lot securing the loan as a home because of such status, the veteran's spouse must occupy or must have previously occupied the manufactured home or a manufactured home on the lot as the spouse's home and must certify such occupancy in such form as the Secretary shall prescribe.

* * *

§ 36.4224 [Amended]

10. In § 36.4224, paragraph (b), last sentence, remove the words "fifty (50)"

and add, in their place the words "forty (40)".

11. In § 36.4232, paragraphs (a)(2) through (a)(5) are redesignated as paragraphs (a) (3), (4), (5), and (7), respectively; in newly designated paragraph (a)(5), remove the words "five (5) years" and add, in their place, the words "one (1) year"; new paragraphs (a)(2) and (a)(6) are added; additional text reading "provided the total loan amount does not exceed 145 percent of the manufacturer's invoice" is added at the end of paragraph (b) before the period; paragraph (d)(1) is revised; and paragraph (e)(5) is removed to read as follows:

§ 36.4232 Allowable fees and charges; manufactured home unit.

(a) * * *

(2) The costs of independent fee inspections for itemized items included in the manufactured home loan, as required by § 36.4204(f).

* * *

(6) The premium for insurance against loss for items missing at time of repossession and for repossession expenses, unless State law prohibits charging borrowers for this coverage, in which case the lender is required to pay for the coverage without reimbursement from the veteran, and

* * *

(d) * * *

(1) The actual cost of transportation or freight;

* * *

§§ 36.4234 and 36.4235 [Amended]

12. In §§ 36.4234 and 36.4235, remove the word "mobile" and add, in its place, the word "manufactured" in the following places:

- (a) Section 36.4234(a);
- (b) Section 36.4234(a)(1), both places;
- (c) Section 36.4234 (b) and (c); and
- (d) Section 36.4235(a), two places.

§ 36.4253 [Amended]

13. In § 36.4253(b)(9), remove the word "creed" and add, in its place, the words "religion, sex, handicap, familial status".

14. In § 36.4253(c)(2), remove the words "racial and creed" in the paragraph heading and add, in their place, the words "equal opportunity" and remove the word "creed" in the text and add, in its place, the words "religion, sex, handicap, familial status".

15. Section 36.4276 is amended by adding paragraph (c) to read as follows:

§ 36.4276 Advances and other charges.

* * *

(c) In claims filed under § 36.4283(f)(4) of this part, the following

costs and expenditures actually incurred and paid may be included in the computation of the indebtedness:

(1) Property preservation or repair costs incurred prior to the date of the liquidation appraisal, to the extent that they contributed to the minimum selling price of the property as determined by the Secretary, and subject to the limitation that they do not exceed the actual cost incurred by the holder, and,

(2) Costs of loan termination, including, but not limited to:

(i) The reasonable and customary expense of transporting the home to the site where it will be repaired and/or resold;

(ii) The cost of the liquidation appraisal;

(iii) A reasonable amount for legal services actually performed and trustee fees, not to exceed a total of \$700;

(iv) Court costs in a foreclosure or other judicial proceeding involving the security;

(v) Any other expenses reasonably necessary for repossession of the security or other termination of the loan; and,

(vi) Any other expense or fee that is approved in advance by the Secretary.

16. Section 36.4283 is amended by adding paragraph (f)(4) and revising paragraph (g), introductory text, to read as follows:

§ 36.4283 Foreclosure or repossession.

* * *

(f) * * *

(4) If the holder has not resold the property, it may elect to submit its claim under Loan Guaranty within 60 days of the date of the Secretary's written advice of the minimum selling price.

(i) For purposes of computation of a claim submitted pursuant to this paragraph, and subject to the limitation that the maximum amount of claim payable shall in no event exceed the amount originally guaranteed, the amount payable on a claim for the guaranty shall be the percentage of the loan originally guaranteed applied to the indebtedness computed as of the date the holder acquired the security. Further:

(A) The minimum selling price determined by the Secretary and provided to the holder shall be credited to the indebtedness as proceeds of sale; or

(B) If no minimum selling price is provided then the current reasonable value of the property as determined by the Secretary and provided to the holder shall be credited to the indebtedness as proceeds of sale; and

The amount payable on the claim shall in no event exceed the remaining balance of the indebtedness.

(ii) Allowable post-acquisition expenditures or costs paid by the holder which may be included in the accounting with the Secretary are limited to those specified in § 36.4276(c).

(g) If at the end of 6 months from the date of acquisition the holder has been unable to resell the property and no claim has been filed pursuant to paragraph (f)(4) of this section, a claim may be submitted under the guaranty and the Secretary will pay to the holder upon submission of such claim:

17. Section 36.4284 is amended by adding paragraph (e) to read as follows:

§ 36.4284 Computation of guaranty claims.

(e) Appropriate computation of the guaranty, proceeds of liquidation, and allowable costs for claims filed under § 36.4283(f)(4) are specified in § 36.4276(c).

[FR Doc. 93-16598 Filed 7-13-93; 8:45 am]

BILLING CODE 8320-01-U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300283A; FRL-4632-1]

RIN 2070-AB78

Vinyl Acetate-Allyl Acetate-Monomethyl Maleate Copolymer and Vinyl Acetate-Vinyl Alcohol-Disodium Itaconate Copolymer; Tolerance Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is establishing exemptions from the requirement of a tolerance for residues of vinyl acetate-allyl acetate-monomethyl maleate copolymer and vinyl acetate-vinyl alcohol-disodium itaconate copolymer when used as inert ingredients (components of water-soluble film) in pesticide formulations applied to growing crops only. This proposed regulation was requested by Mitsui Plastics, Inc.

EFFECTIVE DATE: This regulation becomes effective on July 14, 1993.

ADDRESSES: Written objections, identified by the document control number [OPP-300283A], may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708M, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Connie Welch, Registration Support Branch, Registration Division (H7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 6th Floor, North Tower, Crystal Station #1, 2800 Jefferson Davis Hwy., Arlington, VA 22202, (703)-308-8320.

SUPPLEMENTARY INFORMATION: In the Federal Register of May 12, 1993 (58 FR 27973), EPA issued a proposed rule announcing that Mitsui Plastics, Inc., 11 Martin Ave., White Plains, NY 10606, had submitted pesticide petitions, PP 2E4153 and PP 3E4178, to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(e), propose to amend 40 CFR 180.1001(d) by establishing exemptions from the requirement of a tolerance for residues of vinyl acetate-allyl acetate-monomethyl maleate copolymer (PP 2E4153) and vinyl acetate-vinyl alcohol-disodium itaconate copolymer (PP 3E4178) when used as inert ingredients (components of water-soluble film) in pesticide formulations applied to growing crops only.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule. The scientific data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule.

Based on the information cited above, the Agency has determined that when used in accordance with good agricultural practice, these ingredients are useful and tolerances are not necessary to protect the public health. Therefore, EPA is establishing the exemptions from the requirement of a tolerance as set forth below.

Any person adversely affected by this regulation may, within 30 days after the

date of publication of this document in the Federal Register, file written objections and/or a request for a hearing with the Hearing Clerk at the address given above. 40 CFR 178.20. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections. 40 CFR 178.25. Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on each such issue, and a summary of any evidence relied upon by the objector. 40 CFR 178.27. A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: there is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested. 40 CFR 178.32.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or food additive regulations or raising tolerance levels or food additive regulations or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 1, 1993.

Douglas D. Campt,
Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.