

(h) *BOP maintenance.* You must maintain your BOP system to ensure that the equipment functions properly.

(i) *BOP test records.* You must record the time, date, and results of all pressure tests, actuations, crew drills, and inspections of the BOP system, system components, and marine riser in the driller's report. In addition, you must:

(1) Record BOP test pressures on pressure charts;

(2) Have your onsite representative certify (sign and date) BOP test charts and reports as correct;

(3) Document the sequential order of BOP and auxiliary equipment testing and the pressure and duration of each test. You may reference a BOP test plan if it is available at the facility;

(4) Identify the control station or pod used during the test;

(5) Identify any problems or irregularities observed during BOP system and equipment testing and record actions taken to remedy the problems or irregularities;

(6) Retain all records including pressure charts, driller's report, and referenced documents pertaining to BOP tests, actuations, and inspections at the facility for the duration of the completion activity; and

(7) After completion of the well, you must retain all the records listed in paragraph (i)(6) of this section for a period of two years at the facility, at the lessee's field office nearest the OCS facility, or at another location conveniently available to the District Supervisor.

(j) *Alternate methods.* The District Supervisor may require, or approve, more frequent testing, as well as different test pressures and inspection methods, or other practices.

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 36

#### RIN 2900-AH23

### Loan Guaranty: VA Guaranteed Loans on the Automatic Basis, Withdrawal of Automatic Processing Authority, Record Retention Requirements, and Elimination of Late Reporting Waivers

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

**SUMMARY:** VA is proposing to amend its loan guaranty regulations in the areas of automatic-processing authority, loan reporting, and record-retention

requirements. It is proposed that if a lender does not report the loan within 60 days following full disbursement, the lender no longer would have to provide a request for a waiver; but, as a condition of receiving an evidence of guaranty the lender must continue to provide the required explanation of why the lender was late in reporting the loan. This will have no impact on whether or not VA guarantees the loan but would help VA determine whether action should be taken against a lender.

VA also is proposing to amend its lender record-retention requirements. Currently, lenders are required to retain loan origination records for at least one year from the date of loan closing. VA is proposing to extend this to two years from the date of loan closing. This would improve VA's ability to monitor lender performance and conduct underwriting reviews.

Further, VA is proposing to amend its loan guaranty regulations regarding criteria used to approve non-supervised lenders to process VA guaranteed loans on the automatic basis. These changes would reduce the experience requirements for lenders and their underwriters, thereby making it easier for them to qualify for automatic-processing authority. High underwriting standards would be maintained by requiring that all VA-approved underwriters receive training in VA credit underwriting procedures. This document also requests Paperwork Reduction Act comments concerning the collections of information contained in this document.

**DATES:** Comments must be received on or before September 15, 1997.

**ADDRESSES:** Mail or hand deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900-AH23." All written comments will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

**FOR FURTHER INFORMATION CONTACT:** Ms. Judith Caden, Assistant Director for Loan Policy (264) Loan Guaranty Service, Veterans Benefits Administration, Department of Veterans Affairs, Washington, DC 20420, (202) 273-7368.

**SUPPLEMENTARY INFORMATION:** 38 CFR 36.4335 provides that, whenever a loan is not reported to VA for issuance of evidence of guaranty within 60 days of

full disbursement, evidence of guaranty will be issued only if the timeliness requirement for reporting is formally waived by VA field station personnel. This waiver is essentially a formality and is routinely granted where the lender is able to certify that the loan is current and can provide VA with a valid explanation for the late reporting. The issuance of these waivers is a time-consuming process that appears to be no longer warranted. In order to improve efficiency, VA is proposing to insert a new paragraph (f) in 38 CFR 36.4303 to state that, upon receipt of a statement of the reasons for late reporting, evidence of guaranty will be issued. It is proposed that the statement of the reasons for late reporting continue to be submitted to VA so that these reasons could be considered in deciding if the lenders' personnel might need additional training or whether automatic lending authority should be withdrawn. Since the waiver procedure would be eliminated, 38 CFR 36.4335 (a) and (b), which provide for delegation of waiver authority to field stations, would also be eliminated as unnecessary.

38 CFR 36.4330 requires that lenders maintain loan origination records on VA-guaranteed home loans for a period of at least one year from the date of loan closing. This one-year retention requirement has not been long enough to enable VA monitoring unit audit teams to review loan records for as many lenders as necessary to properly administer the VA loan guaranty program. Moreover, industry standards, including Federal Housing Administration (FHA) regulations and the Equal Credit Opportunity Act (ECOA), require that lenders keep loan origination records for at least 24 months. This proposal would amend VA's record-retention requirement to require that lenders maintain loan origination records for at least 2 years from the date of loan closing. This not only would conform with industry standards but it also appears that it would improve VA's ability to monitor loan performance and to identify lenders who may be having particular trouble underwriting loans.

VA has completed a study of the criteria and process used to approve lenders to process VA loans on the automatic basis. In the course of conducting this review, VA reviewed procedures used by the FHA, the Government National Mortgage Association (GNMA), the Federal National Mortgage Association (FNMA), and the Federal Home Loan Mortgage Corporation (FHLMC). Based on this review it is proposed to amend the loan guaranty regulations. As explained

below, we are proposing changes in the following requirements for lender participation in the automatic lender program: Lender experience, working capital, lines of credit, and VA-approved underwriter eligibility and training. Also, as explained below, we propose to add a requirement for annual recertification of lenders and provide for withdrawal of automatic authority from lenders who fail to meet the recertification criteria. These changes would (1) streamline VA's approval process; (2) update the standards employed in granting automatic authority to reflect changes in the mortgage banking industry; and (3) simplify lender submissions by adopting requirements used by other Government agencies.

VA defines an "agent" as any party performing loan-related functions on behalf of, or in the name of, a sponsoring lender. The extent of the relationship between lender and agent is at their discretion. VA does not restrict who may act as agent. Any individual, including a real estate agent or broker, may be authorized by a lender to act as its agent, provided the lender accepts full responsibility for the acts, errors, or omissions of the agent in processing and/or closing loans.

The Department is proposing changes in requirements for lender and agent experience. Currently, VA requires that in order for a lender to close VA loans on the automatic basis the lender must either (1) be a supervised lender or a wholly owned subsidiary or affiliate of a supervised lender, i.e., subject to examination and supervision by a Federal or State agency, or (2) meet certain minimum requirements. These requirements are: (a) Maintenance of a minimum of \$50,000 of working capital; (b) the firm's active engagement in originating VA mortgages for at least 3 recent years, or 3 recent years of experience of each principal officer of the firm who is actively involved in managing origination functions with VA mortgages in managerial functions in either the present company or other companies; (c) the approval, by VA, of a full-time qualified underwriter who will personally review and make underwriting decisions on VA loans to be closed on the automatic basis; (d) one or more lines of credit totaling at least \$1 million; (e) if the lender customarily sells loans it originates, a minimum of two permanent investors; (f) all prospective VA loans must be reviewed and approved or rejected by a VA-approved underwriter at the lender's home or main office or a VA-approved regional underwriting office prior to closing; (g) a designated liaison, plus an

alternate, to deal with VA, other than the underwriter, if possible; and (h) a written quality control plan ensuring compliance with VA requirements.

Instead of these current requirements, VA is proposing several changes to 38 CFR § 36.4348. First, regarding experience requirements, lenders would be required to have 2 recent years of VA experience and have closed a minimum of 10 loans within the past 24 months. In the alternative, if the firm has been making VA loans for less than 2 years, they must have closed at least 25 loans without repeated deficiencies in underwriting or a high rate of rejection by VA. As another alternative, each of the operating officers responsible for loan origination activities must have two recent years of VA loan experience in that capacity. Also, firms may meet the experience requirement if they have functioned for at least 2 recent years as an agent for lender(s) making VA loans, and they provide letters of recommendation from the sponsoring lender(s). VA offers these alternative experience requirements to make it easier for more mortgage lenders to participate in the VA loan guaranty program. This proposed regulatory change eases these requirements by reducing the number of years' of experience from 3 to 2. However, to ensure that a potential program participant has sufficient recent experience, VA proposes to require that lenders have closed a minimum of 10 loans within the past 24 months.

VA is also proposing to amend this section's requirements concerning working capital and lines of credit. VA currently requires that a lender have a minimum of \$50,000 working capital. This proposal would ease VA requirements by accepting, as an alternative, a demonstrated net worth of \$250,000, as defined by the Department of Housing and Urban Development (HUD) and reported to VA in the lender's annual financial statements, prepared by a certified public accountant (CPA). The alternative net worth requirement is the standard currently in use by HUD. Since most VA program participants are also HUD lenders, with this regulatory amendment, it will be less burdensome for these lenders to comply with VA requirements and would still provide adequate protection for VA loans. In addition, VA's proposed change concerning lines of credit clarifies that by an "unrestricted" line of credit VA means that the funds must be available based upon the loan meeting VA requirements and not restricted to those VA loans that the investor wants to fund.

Finally, VA is proposing changes to its requirements for approved underwriter eligibility and training. Currently, VA requires that an underwriter must have a minimum of 3 years' experience in mortgage lending in reviewing credit and making underwriting decisions, with at least 2 recent years in connection with loans submitted to VA for guaranty. This experience must have been with an institutional investor originating for its own portfolio or purchasing VA loans, or with an originator selling this type of loan to investors. VA is proposing to amend 38 CFR 36.4348 to provide that these experience requirements will be satisfied if the nominee has 3 years of combined experience in processing, pre-underwriting, and underwriting, at least 1 recent year of which must be related to underwriting. Alternatively, the nominee must be designated as an Accredited Residential Underwriter (ARU) by the Mortgage Bankers Association (MBA) within the last 3 years. This change is proposed because VA has determined that recognition as an ARU by the MBA demonstrates proficiency in mortgage underwriting. This change will make it easier for more qualified lenders to become program participants than before. In addition, an applicant must be employed on a full-time basis by the lender and he or she must attend training sponsored by the VA Regional Office within 90 days of approval as a VA underwriter. This is in order to make sure that the underwriter receives up-to-date training in VA program requirements and to enable him or her to become familiar with the local VA Regional Office.

VA also proposes to stop requiring that the underwriter be located in the lender's home office or in an approved regional underwriting office, provided the lender certifies that the underwriter is not supervised by a branch manager or other person with production responsibilities. The reason for this is that VA recognizes that changes in the lending industry may dictate more flexible corporate structures. Since the lender is responsible to VA for the quality of the underwriting performed by its employees, VA can be flexible about the location of the lender's underwriters.

It also is proposed to amend § 36.4349 to clarify the current practice regarding withdrawal of automatic-processing authority for non-supervised lenders during their probationary period. In this regard, it is proposed that automatic authority may be withdrawn for any of the reasons applicable to non-probationary automatic lenders regardless of whether deficiencies

previously have been brought to the attention of the probationary lender.

Minor changes are proposed to § 36.4349 to conform the language to proposed changes in § 36.4348 regarding the alternate financial criteria of adjusted net worth and the provision that automatic-processing authority may be withdrawn at any time for failure to meet basic qualifying and/or annual recertification requirements. Also, other nonsubstantive changes would be made for purposes of clarification.

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

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), proposed 38 CFR 36.4303(a), (c), (d), (e), (f), (g), (i), and (l); 36.4330(a) and (b); and 36.4348(b), (c), and (d), which are set forth in full in the text portion of this document, contain collections of information. These provisions, which include republished provisions, prescribe the information to be submitted by lenders in order to qualify for participation in the VA Loan Guaranty Program as “automatic” lenders, i.e., lenders who VA has approved as qualified to close loans to veterans without submitting the paperwork to VA for prior approval (38 CFR 36.4348–36.4349). These sections contain material that explains what information is necessary and the quality of the information needed for lenders to qualify as “automatic” lenders (§ 36.4348(b), (c), and (d)). These sections also include a requirement for explanations of delays in reporting loans (§ 36.4303); and maintenance of records requirements (§ 36.4330(a) and (b)). Also, as required under section 3507(d) of the Act, VA has submitted a copy of this proposed rulemaking action to the Office of Management and Budget (OMB) for its review of the collection of information.

OMB assigns control numbers to collections of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Comments on the collections of information should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Comments should indicate that they are submitted in response to “RIN 2900-AH23.”

*Title:* VA-Guaranteed Loans on the Automatic Basis, Withdrawal of Automatic-processing Authority, Record-retention Requirements, and Elimination of Late Reporting Waivers.

*Summary of collection of information:* Pursuant to 38 U.S.C. 3702(d), mortgage lenders can be authorized to participate in the VA Loan Guaranty Program as “automatic” lenders, i.e., lenders qualified to close loans to veterans without submitting the paperwork to VA for prior approval. The proposed regulatory amendments would require that prospective “automatic” lenders provide VA with a certification (38 CFR 36.4348(b)(2)) and other limited information (§ 36.4348(b), (c), and (d)) in order to be approved as qualified to close loans to veterans without submitting the loan to VA for prior approval.

*Description of the need for information and proposed use of information:* If a lender is going to obligate VA to guarantee loans without VA’s prior approval, VA must be able to determine that such a lender is sufficiently qualified to do so. At the same time, VA needs to stay current with industry standards with regard to underwriter qualifications, methods of obtaining information, and other Government agency lending practices.

*Description of likely respondents:* Mortgage lenders who make VA-guaranteed home loans.

*Estimated number of respondents:* Approximately 4,630 per year.

*Estimated frequency of responses:* Most of this information is collected on a “one-time” basis or on an annual basis.

*Estimated average burden per collection:* The information collected for submission to VA is, in large part, already being prepared for participation in other government lending programs. Most lenders who participate in the VA Loan Guaranty Program also participate in other Government lending programs. The remaining information collections will have an estimated annual burden of about 1 hour per respondent.

*Estimated total annual reporting and recordkeeping burden:* The information collected for submission to VA is prepared, for the most part, as a customary business practice. These information collections are elements of a package of information prepared by lenders who participate in any Government lending program. The remaining information collections are usually already being provided to VA lenders who are or who wish to be automatic VA lenders. These regulatory changes merely make minor adjustments in the manner of collection

to conform VA requirements to industry norms. The result, for the most part, is that lenders will be able to provide to VA information they have already prepared for use in other Government lending programs.

The volume of cases is estimated to be about 4,630. Not all this information will be required in all cases, depending on the circumstances of each lender. Information collection per case is approximately 1 hour. Most of this information is already being collected by lenders who have Direct Endorsement authority from HUD.

The Department considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department’s estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the proposed collection of information contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed regulations.

#### **Regulatory Flexibility Act**

The Secretary hereby certifies that these proposed regulatory amendments will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Industry norms for other lending programs already require lenders to comply with most of the proposed standards set forth in this regulatory package. Further, activities concerning loans subject to the VA Loan Guaranty Program do not constitute a significant portion of activities of small businesses.

The Catalog of Federal Domestic Assistance Program numbers are 64.114 and 64.119.

### List of Subjects in 38 CFR Part 36

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

Approved: July 3, 1997.

**Hershel W. Gober,**

*Acting Secretary of Veterans Affairs.*

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

### PART 36—LOAN GUARANTY

1. The authority citation for part 36, §§ 36.4300 through 36.4375 continues to read as follows:

**Authority:** Sections 36.4300 through 36.4374 issued under 38 U.S.C. §§ 101, 501, 3701–3704, 3710, 3712–3714, 3720, 3729, 3732, unless otherwise noted.

2. Section 36.4303 is revised to read follows:

#### § 36.4303 Reporting requirements.

(a) With respect to loans automatically guaranteed under 38 U.S.C. 3703(a)(1), evidence of the guaranty will be issuable to a lender of a class described under 38 U.S.C. 3702(d) if the loan is reported to the Secretary within 60 days following full disbursement and upon the certification of the lender that:

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

(2) Except for acquisition and improvement loans as defined in § 36.4301, any construction, repairs, alterations, or improvements effected subsequent to the appraisal of reasonable value, and paid for out of the proceeds of the loan, which have not been inspected and approved upon completion by a compliance inspector designated by the Secretary, have been completed properly in full accordance with the plans and specifications upon which the original appraisal was based; and any deviations or changes of identity in said property have been approved as required in § 36.4304 concerning guaranty or insurance of loans to veterans;

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

(Authority: 38 U.S.C. 3703(c)(1))

(b) Loans made pursuant to 38 U.S.C. 3703(a), although not entitled to automatic insurance thereunder, may,

when made by a lender of a class described in 38 U.S.C. 3702(d)(1), be reported for issuance of an insurance credit.

(Authority: 38 U.S.C. 3702(d), 3703(a)(2))

(c) Each loan proposed to be made to an eligible veteran by a lender not within a class described in 38 U.S.C. 3702(d) shall be submitted to the Secretary for approval prior to closing. Lenders described in 38 U.S.C. 3702(d) shall have the optional right to submit any loan for such prior approval. The Secretary, upon determining any loan so submitted to be eligible for a guaranty, or for insurance, will issue a certificate of commitment with respect thereto.

(d) A certificate of commitment shall entitle the holder to the issuance of the evidence of guaranty or insurance upon the ultimate actual payment of the full proceeds of the loan for the purposes described in the original report and upon the submission within 60 days thereafter of a supplemental report showing that fact and:

(1) The identity of any property purchased therewith,

(2) That all property purchased or acquired with the proceeds of the loan has been encumbered as required by the regulations concerning guaranty or insurance of loans to veterans,

(3) Except for acquisition and improvement loans as defined in § 36.4301(c), any construction, repairs, alterations, or improvements paid for out of the proceeds of the loan, which have not been inspected and approved subsequent to completion by a compliance inspector designated by the Secretary, have been completed properly in full accordance with the plans and specifications upon which the original appraisal was based; and that any deviations or changes of identity in said property have been approved as required by § 36.4304, and

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

(Authority: 38 U.S.C. 3703(c)(1))

(e) Upon the failure of the lender to report in accordance with the provisions of paragraph (d) of this section, the certificate of commitment shall have no further effect, or the amount of guaranty or insurance shall be reduced pro rata, as may be appropriate under the facts of the case: Provided, nevertheless, that if the loan otherwise meets the requirements of this section, said certificate of commitment may be given effect by the Secretary, notwithstanding

the report is received after the date otherwise required.

(f) For loans not reported within 60 days, evidence of guaranty will be issued only if the loan report is accompanied by a statement signed by a corporate officer of the lending institution which explains why the loan was reported late. The statement must identify the case or cases in issue and must set forth the specific reason or reasons why the loan was not submitted on time. Upon receipt of such a statement evidence of guaranty will be issued. A pattern of late reporting and the reasons therefore will be considered by VA in taking action under § 36.4349.

(g) Evidence of a guaranty will be issued by the Secretary by appropriate endorsement on the note or other instrument evidencing the obligation, or by a separate certificate at the option of the lender. Notice of credit to an insurance account will be given to the lender. Unused certificates of eligibility issued prior to March 1, 1946, are void. No certificate of commitment shall be issued and no loan shall be guaranteed or insured unless the lender, the veteran, and the loan are shown to be eligible. Evidence of guaranty or insurance will not be issued on any loan for the purchase or construction of residential property unless the veteran, or the veteran's spouse in the case of a veteran who cannot occupy the property because of active duty status with the Armed Forces, certifies in such form as the Secretary shall prescribe, that the veteran, or spouse of the active duty veteran, intends to occupy the property as his or her home. Guaranty or insurance evidence will not be issued on any loan for the alteration, improvement, or repair of any residential property or on a refinancing loan unless the veteran, or spouse of an active duty service member, certifies that he or she presently occupies the property as his or her home. An exception to this is if the home improvement or refinancing loan is for extensive changes to the property which will prevent the veteran or the spouse of the active duty veteran from occupying the property while the work is being completed. In such a case the veteran or spouse of the active duty veteran must certify that he or she intends to occupy or reoccupy the property as his or her home upon completion of the substantial improvements or repairs. All of the mentioned certifications must take place at the time of loan application and closing except in the case of loans automatically guaranteed, in which case veterans or in the case of an active duty veteran, the veteran's spouse shall make

the required certification only at the time the loan is closed.

(Authority: 38 U.S.C. 3704(c))

(h) Subject to compliance with the regulations concerning guaranty or insurance of loans to veterans, the certificate of guaranty or the evidence of insurance credit will be issuable within the available entitlement of the veteran on the basis of the loan stated in the final loan report or certification of loan disbursement, except for refinancing loans for interest rate reductions. The available entitlement of a veteran will be determined by the Secretary as of the date of receipt of an application for guaranty or insurance of a loan or of a loan report. Such date of receipt shall be the date the application or loan report is date-stamped into VA. 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 Secretary has incurred actual liability or loss, unless in the event of loss or the incurrence and payment of such liability by the Secretary, the resulting indebtedness of the veteran to the United States has been paid in full. *Provided*, That if the Secretary issues or has issued a certificate of commitment covering the loan described in the application for guaranty or insurance or in the loan report, the amount and percentage of guaranty or the amount of the insurance credit 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 Secretary in the meantime and prior to the issuance of the evidence of guaranty or insurance 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 Secretary will be deemed to have incurred actual loss on a guaranteed or insured loan if the Secretary 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 Secretary 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 Secretary will be deemed to have incurred an actual loss if the loan is in default. A loan, the proceeds of which are to be disbursed progressively or at intervals, will be deemed to have been closed for the purposes of this paragraph if the loan has been completed in all respects excepting the actual "payout" of the entire loan proceeds.

(Authority: 38 U.S.C. 3702(a), 3710(c))

(i) Any amounts that are disbursed for an ineligible purpose shall be excluded in computing the amount of guaranty or insurance credit.

(j) Notwithstanding the lender has erroneously, but without intent to misrepresent, made certification with respect to paragraph (a)(1) of this section, the guaranty or insurance will become effective upon the curing of such default and its continuing current for a period of not less than 60 days thereafter. For the purpose of this paragraph a loan will be deemed current so long as the installment is received within 30 days after its due date.

(k) No guaranty or insurance commitment or evidence of guaranty or insurance will be issuable in respect to any loan to finance a contract which:

(1) Is for the purchase, construction, repair, alteration, or improvement of a dwelling or farm residence;

(2) Is dated on or after June 4, 1969;

(3) Provides for a purchase price or cost to the veteran in excess of the reasonable value established by the Secretary; and

(4) Was signed by the veteran prior to the veteran's receipt of notice of such reasonable value; unless such contract includes, or is amended to include, a provision substantially as follows:

It is expressly agreed that, notwithstanding any other provisions of this contract, the purchaser shall not incur any penalty by forfeiture of earnest money or otherwise or be obligated to complete the purchase of the property described herein, if the contract purchase price or cost exceeds the reasonable value of the property established by the Department of Veterans Affairs. The purchaser shall, however, have the privilege and option of proceeding with the consummation of this contract without regard to the amount of the reasonable value established by the Department of Veterans Affairs.

(Authority: 38 U.S.C. 501, 3703(c)(1))

(l) With respect to any loan for which a commitment was made on or after March 1, 1988, the Secretary must be notified whenever the holder receives knowledge of disposition of the residential property securing a VA guaranteed loan.

(1) If the seller applies for prior approval of the assumption of the loan, then:

(i) A holder (or its authorized servicing agent) who is an automatic lender must examine the creditworthiness of the purchaser and determine compliance with the provisions of 38 U.S.C. 3714. The creditworthiness review must be performed by the party that has automatic authority. If both the holder and its servicing agent are automatic lenders, then they must decide between themselves which one will make the determination of creditworthiness, whether the loan is current and whether there is a contractual obligation to assume the loan, as required by 38 U.S.C. 3714. If the actual loan holder does not have automatic authority and its servicing agent is an automatic lender, then the servicing agent must make the determinations required by 38 U.S.C. 3714 on behalf of the holder. The actual holder will remain ultimately responsible for any failure of its servicing agent to comply with the applicable law and VA regulations.

(A) If the assumption is approved and the transfer of the security is completed, then the notice required by this paragraph shall consist of the credit package (unless previously provided in accordance with paragraph (k)(1)(i)(B) of this section) and a copy of the executed deed and/or assumption agreement as required by VA office of jurisdiction. The notice shall be submitted to the Department with VA receipt for the funding fee provided for in § 36.4312(e)(3) of this part.

(B) If the application for assumption is disapproved, the holder shall notify the seller and the purchaser that the decision may be appealed to VA office of jurisdiction within 30 days. The holder shall make available to that VA office all items used by the holder in making the holder's decision in case the decision is appealed to VA. If the application remains disapproved after 60 days (to allow time for appeal to and review by VA), then the holder must refund \$50 of any fee previously collected under the provisions of § 36.4312(d)(8) of this part. If the application is subsequently approved and the sale is completed, then the holder (or its authorized servicing agent) shall provide the notice described in paragraph (k)(1)(i)(A) of this section.

(C) In performing the requirements of paragraph (k)(1)(i)(A) or (k)(1)(i)(B) of this section, the holder must complete its examination of the creditworthiness of the prospective purchaser and advise the seller no later than 45 days after the date of receipt by the holder of a

complete application package for the approval of the assumption. The 45-day period may be extended by an interval not to exceed the time caused by delays in processing of the application that are documented as beyond the control of the holder, such as employers or depositories not responding to requests for verifications, which were timely forwarded, or follow-ups on those requests.

(ii) If neither the holder nor its authorized servicing agent is an automatic lender, the notice to VA shall include:

(A) Advice regarding whether the loan is current or in default;

(B) A copy of the purchase contract; and

(C) A complete credit package developed by the holder which the Secretary may use for determining the creditworthiness of the purchaser.

(D) The notice and documents required by this section must be submitted to VA office of jurisdiction no later than 35 days after the date of receipt by the holder of a complete application package for the approval of the assumption, subject to the same extensions as provided in paragraph (k)(1)(i) of this section. If the assumption is not automatically approved by the holder or its authorized agent, pursuant to the automatic authority provisions, \$50 of any fee collected in accordance with § 36.4312(d)(8) of this part must be refunded. If the Department of Veterans Affairs does not approve the assumption, the holder will be notified and an additional \$50 of any fee collected under § 36.4312(d)(8) must be refunded following the expiration of the 30-day appeal period set out in paragraph (k)(1)(i)(B) of this section. If such an appeal is made to the Department of Veterans Affairs, then the review will be conducted at the Department of Veterans Affairs office of jurisdiction by an individual who was not involved in the original disapproval decision. If the application for assumption is approved and the transfer of security is completed, then the holder (or its authorized servicing agent) shall provide the notice required in paragraph (k)(1)(i)(A) of this section.

(2) If the seller fails to notify the holder before disposing of property securing the loan, the holder shall notify the Secretary within 60 days after learning of the transfer. Such notice shall advise whether or not the holder intends to exercise its option to immediately accelerate the loan and whether or not an opportunity will be extended to the transferor and transferee to apply for retroactive approval of the

assumption under the terms of this paragraph.

(Authority: 38 U.S.C. 3714)

(Approved by the Office of Management and Budget (OMB) under control number 2900-0516)

3. Section 36.4330 is revised to read as follows:

**§ 36.4330 Maintenance of records.**

(a) The holder shall maintain a record of the amounts of payments received on the obligation and disbursements chargeable thereto and the dates thereof. This record shall be maintained until the Secretary ceases to be liable as guarantor or insurer of the loan. For the purpose of any accounting with the Secretary or computation of a claim, any holder who fails to maintain such record shall be presumed to have received on the dates due all sums which by the terms of the contract are payable prior to date of claim for default, and the burden of going forward with evidence and of ultimate proof of the contrary shall be on such holder.

(b) The lender shall retain copies of all loan origination records on a VA guaranteed loan for at least two years from the date of loan closing. Loan origination records include the loan application, including any preliminary application, verifications of employment and deposit, all credit reports, including preliminary credit reports, copies of each sales contract and addendums, letters of explanation for adverse credit items, discrepancies and the like, direct references from creditors, correspondence with employers, appraisal and compliance inspection reports, reports on termite and other inspections of the property, builder change orders, and all closing papers and documents.

(Authority: 38 U.S.C. 501, 3703(c)(1))

(c) The Secretary has the right to inspect, examine, or audit, at a reasonable time and place, the records or accounts of a lender or holder pertaining to loans guaranteed or insured by the Secretary.

(Approved by OMB under control number 2900-0515)

**§ 36.4335 [Amended]**

4. In § 36.4335, paragraphs (a) and (b) are removed; and paragraphs (c), (d), (e), (f), (g), and (h) are redesignated as paragraphs (a), (b), (c), (d), (e), and (f), respectively. In addition, the authority citation after the newly redesignated paragraph (e) is removed.

5. In § 36.4348, paragraphs (d), (e), and (f) are redesignated as paragraphs (e), (f), and (g), respectively; paragraphs (b), (c), and newly redesignated (e) are

revised and a new paragraph (d) is added to read as follows:

**§ 36.4348 Authority to close loans on the automatic basis.**

\* \* \* \* \*

(b) Non-supervised lenders of the class described in 38 U.S.C. 3702(d)(3) must apply to the Secretary for authority to process loans on the automatic basis. Each of the minimum requirements listed below must be met by applicant lenders.

(1) *Experience.* The firm must meet one of the following experience requirements:

(i) The firm must have been actively engaged in originating VA loans for at least two years, have a VA Lender ID number and have originated and closed a minimum of ten VA loans within the past two years, excluding interest rate reduction refinance loans (IRRRLs), that have been properly documented and submitted in compliance with VA requirements and procedures; or

(ii) The firm must have a VA ID number and, if active for less than two years, have originated and closed at least 25 VA loans, excluding IRRRLs, that have been properly documented and submitted in compliance with VA requirements and procedures; or

(iii) Each principal officer of the firm, who is actively involved in managing origination functions, must have a minimum of two recent years' management experience in the origination of VA loans. This experience may be with the current or prior employer. For the purposes of this requirement, principal officer is defined as president or vice president; or

(iv) If the firm has been operating as an agent for a non-supervised automatic lender (sponsoring lender), the firm must submit documentation confirming that it has a VA Lender ID number and has originated a minimum of ten VA loans, excluding IRRRLs, over the past two years. If active for less than two years, the agent must have originated at least 25 VA loans. The required documentation is a copy of the VA letter approving the firm as an agent for the sponsoring lender; a copy of the corporate resolution, describing the functions the agent was to perform, submitted to VA by the sponsoring lender; and a letter from a senior officer of the sponsoring lender indicating the number of VA loans submitted by the agent each year and that the loans have been properly documented and submitted in compliance with VA requirements and procedures.

(2) *Underwriter.* A senior officer of the firm must nominate a full-time qualified employee(s) to act in the firm's behalf as

underwriter(s) to personally review and make underwriting decisions on VA loans to be closed on the automatic basis.

(i) Nominees for underwriter must have a minimum of three years experience in processing, pre-underwriting or underwriting mortgage loans. At least one recent year of this experience must have included making underwriting decisions on VA loans. (Recent is defined as within the past three years.) A VA nomination and current resume, outlining the underwriter's specific experience with VA loans, must be submitted for each underwriter nominee.

(ii) Alternatively, if an underwriter does not have the experience outlined above, the underwriter must submit documentation verifying that he or she is a current Accredited Residential Underwriter (ARU) as designated by the Mortgage Bankers Association (MBA).

(iii) If an underwriter is not located in the lender's corporate office, then a senior officer must certify that the underwriter reports to and is supervised by an individual who is not a branch manager or other person with production responsibilities.

(iv) All VA approved underwriters must attend a 1-day (eight-hour) training course on underwriter responsibilities, VA underwriting requirements, and VA administrative requirements, including the usage of VA forms, within 90 days of approval (if VA is unable to make such training available within 90 days, the underwriter must attend the first available training). Immediately upon approval of a VA underwriter, the office of jurisdiction will contact the underwriter to schedule this training at a VA regional office (VARO) of the underwriter's choice. This training is required for all newly approved VA underwriters, including those who qualified for approval based on an ARU designation, as well as VA approved underwriters who have not underwritten VA guaranteed loans in the past 24 months. Furthermore, and at the discretion of any VARO in whose jurisdiction the lender is originating VA loans, VA approved underwriters who consistently approve loans that do not meet VA credit standards may be required to retake this training.

(3) *Underwriter Certification.* The lender must certify that all underwriting decisions as to whether to accept or reject a VA loan will be made by a VA approved underwriter. In addition each VA approved underwriter will be required to certify on each VA loan that he or she approves that the loan has been personally reviewed and approved by the underwriter.

(4) *Financial Requirements.* Each application must include the most recent annual financial statement audited and certified by a certified public accountant (CPA). If the date of the annual financial statement precedes that of the application by more than six months, the lender must also attach a copy of its latest internal financial statement. Lenders are required to meet either the working capital or the minimum net worth financial requirement as defined below.

(i) *Working Capital.* A minimum of \$50,000 in working capital must be demonstrated.

(A) Working capital is a measure of a firm's liquidity, or the ability to pay its short-term debts. Working capital is defined as the excess of current assets over current liabilities. Current assets are defined as cash or other liquid assets convertible into cash within a 1-year period. Current liabilities are defined as debts that must be paid within the same 1-year time frame.

(B) The VA determination of whether a lender has the required minimum working capital is based on the balance sheet of the lender's annual audited financial statement. Therefore, either the balance sheet must be classified to distinguish between current and fixed assets and between current and long-term liabilities or the information must be provided in a footnote to the statement.

(ii) *Net Worth.* Lenders must show evidence of a minimum of \$250,000 in adjusted net worth. Net worth is a measure of a firm's solvency, or its ability to exist in the long run, quantified by the payment of long-term debts. Net worth as defined by generally accepted accounting principles (GAAP) is total assets minus total liabilities. Adjusted net worth for VA purposes is the same as the adjusted net worth required by the Department of Housing and Urban Development (HUD), net worth less certain unacceptable assets including:

(A) Any assets of the lender pledged to secure obligations of another person or entity.

(B) Any asset due from either officers or stockholders of the lender or related entities, in which the lender's officers or stockholders have a personal interest, unrelated to their position as an officer or stockholder.

(C) Any investment in related entities in which the lender's officers or stockholders have a personal interest unrelated to their position as an officer or stockholder.

(D) That portion of an investment in joint ventures, subsidiaries, affiliates and/or other related entities which is

carried at a value greater than equity, as adjusted. "Equity as adjusted" means the book value of the related entity reduced by the amount of unacceptable assets carried by the related entity.

(E) All intangibles, such as goodwill, covenants not to compete, franchise fees, organization costs, etc., except unamortized servicing costs carried at a value established by an arm's-length transaction and presented in accordance with generally accepted accounting principles.

(F) That portion of an asset not readily marketable and for which appraised values are very subjective, carried at a value in excess of a substantially discounted appraised value. Assets such as antiques, art work and gemstones are subject to this provision and should be carried at the lower of cost or market.

(G) Any asset that is principally used for the personal enjoyment of an officer or stockholder and not for normal business purposes. Adjusted net worth must be calculated by a CPA using an audited and certified balance sheet from the lender's latest financial statements. "Personal interest" as used in this section indicates a relationship between the lender and a person or entity in which that specified person (e.g., spouse, parent, grandparent, child, brother, sister, aunt, uncle or in-law) has a financial interest in or is employed in a management position by the lender.

(5) *Lines of credit.* The lender applicant must have one or more lines of credit aggregating at least \$1 million. The identity of the source(s) of warehouse lines of credit must be submitted to VA and the applicant must agree that VA may contact the named source(s) for the purpose of verifying the information. A line of credit must be unrestricted, that is, funds are available upon demand to close loans and are not dependent on prior investor approval. A letter from the company(ies) verifying the unrestricted line(s) of credit must be submitted with the application for automatic authority.

(6) *Permanent investors.* If the lender customarily sells loans it originates, it must have a minimum of two permanent investors. The names, addresses and telephone numbers of the permanent investors must be submitted with the application.

(7) *Liaison.* The lender applicant must designate an employee and an alternate to be the primary liaison with VA. The liaison officers should be thoroughly familiar with the lender's entire operation and be able to respond to any query from VA concerning a particular VA loan or the firm's automatic authority.

(8) *Other considerations.* All applications will also be reviewed in light of the following considerations:

(i) There must be no factors which indicate that the firm would not exercise the care and diligence required of a lender originating and closing VA loans on the automatic basis; and

(ii) In the event the firm, any member of the board of directors, or any principal officer has ever been debarred or suspended by any Federal agency or department, or any of its directors or officers has been a director or officer of any other lender or corporation that was so debarred or suspended, or if the lender applicant ever had a servicing contract with an investor terminated for cause, a statement of the facts must be submitted with the application for automatic authority.

(9) *Quality Control System.* In order to be approved as a non-supervised lender for automatic-processing authority, the lender must implement a written quality control system which ensures compliance with VA requirements. The lender must agree to furnish findings under its systems to VA on demand. The elements of the quality control system must include the following:

(i) *Underwriting policies.* Each office of the lender shall maintain copies of VA credit standards and all available VA underwriting guidelines.

(ii) *Corrective measures.* The system should ensure that effective corrective measures are taken promptly when deficiencies in loan originations are identified by either the lender or VA. Any cases involving major discrepancies which are discovered under the system must be reported to VA.

(iii) *System integrity.* The quality control system should be independent of the mortgage loan production function.

(iv) *Scope.* The review of underwriting decisions and certifications must include compliance with VA underwriting requirements, sufficiency of documentation and soundness of underwriting judgments.

(v) *Appraisal quality.* For lenders approved for the Lender Appraisal Processing Program (LAPP), the quality control system must specifically contain provisions concerning the adequacy and quality of real property appraisals. While the lender's quality control personnel need not be appraisers, they should have basic familiarity with appraisal theory and techniques so that they can select appropriate cases for review if discretionary sampling is used, and prescribe appropriate corrective action(s) in the appraisal review process when discrepancies or problems are

identified. Copies of the lender's quality control plan or self-policing system evidencing appraisal related matters must be provided to the VA office of jurisdiction.

(10) *Courtesy closing.* The lender-applicant must certify to VA that it will not close loans on an automatic basis as a courtesy or accommodation for other mortgage lenders, whether or not such lenders are themselves approved to close on an automatic basis without the express approval of VA. However, a lender with automatic authority may close loans for which information and supporting credit data have been developed on its behalf by a duly authorized agent.

(11) *Probation.* Lenders meeting these requirements will be approved to close VA loans on an automatic basis for a 1-year period. At the end of this period, the lender's quality of underwriting, the completeness of loan submissions, compliance with VA requirements and procedures, and the delinquency and foreclosure rates will be reviewed.

(12) *Extensions of Automatic Authority.* When a lender wants its automatic authority extended to another State, the request must be submitted, with the fee designated in paragraph (e)(5) of this section, to the VA regional office having jurisdiction in the State where the lender's corporate office is located.

(i) When a lender wants its automatic authority to include loans involving a real estate brokerage and/or a residential builder or developer in which it has a financial interest, owns, is owned by, or with which it is affiliated, the following documentation must be submitted:

(A) A corporate resolution from the lender and each affiliate indicating that they are separate entities operating independently of each other. The lender's corporate resolution must indicate that it will not give more favorable underwriting consideration to its affiliate's loans, and the affiliate's corporate resolution must indicate that it will not seek to influence the lender to give their loans more favorable underwriting consideration.

(B) Letters from permanent investors indicating the percentage of all VA loans based on the affiliate's production originated by the lender over a 1-year period that are past due 90 days or more. This delinquency ratio must be no higher than the national average for the same period for all mortgage loans.

(ii) When a lender wants its automatic authority extended to additional States, the lender must indicate how it plans to originate VA loans in those States. Unless a lender proposes a telemarketing plan, VA requires that a

lender have a presence in the State, that is, a branch office, an agent relationship, or that it is a reasonable distance from one of its offices in an adjacent State, i.e., 50 miles. If the request is based on an agency relationship, the documentation outlined in paragraph (b)(13) of this section must be submitted with the request for extension.

(13) *Use of Agents.* A lender using an agent to perform a portion of the work involved in originating and closing a VA guaranteed loan on an automatic basis must take full responsibility by certification for all acts, errors and omissions of the agent or other entity and its employees for the work performed. Any such acts, errors or omissions will be treated as those of the lender and appropriate sanctions may be imposed against the lender and its agent. Lenders requesting an agent must submit the following documentation to the VA regional office having jurisdiction for the lender's corporate office:

(i) A corporate resolution certifying that the lender takes full responsibility for all acts, errors and omissions of the agent that it is requesting. The corporate resolution must also identify the agent's name and address, the geographic area in which the agent will be originating and/or closing VA loans; whether the agent is authorized to issue interest rate lock-in agreements on behalf of the lender; and outline the functions the agent is to perform. Alternatively, the lender may submit a blanket corporate resolution which sets forth the functions of any and all agents and identifies individual agents by name, address, and geographic area in separate letters which refer to the blanket resolution.

(ii) When the VA regional office having jurisdiction for the lender's corporate office acknowledges receipt of the lender's request in writing, the agent is thereby authorized to originate VA loans on the lender's behalf.

(Authority: 38 U.S.C. 501(a), 3702(d))

(c) A lender approved to close loans on the automatic basis who subsequently fails to meet the requirements of this section must report to VA the circumstances surrounding the deficiency and the remedial action to be taken to cure it. Failure to advise VA in a timely manner could result in a lender's loss of its approval to close VA loans on the automatic basis.

(Authority: 38 U.S.C. 501(a), 3702(d))

(d) Annual recertification. Non-supervised lenders of the class described in 38 U.S.C. 3702(d)(3) must be recertified annually for authority to process loans on the automatic basis.

The following minimum annual recertification requirements must be met by each lender approved for automatic authority:

(1) *Financial requirements.* A lender must submit, within 120 days following the end of its fiscal year, an audited and certified financial statement with a classified balance sheet or a separate footnote for adjusted net worth to VA Central Office (264) for review. The same minimum financial requirements described in § 36.4348(b)(5) must be maintained and verified annually in order to be recertified for automatic authority.

(2) *Processing annual lender data.* The VA regional office having jurisdiction for the lender's corporate office will mail an annual notice to the lender requesting current information on the lender's personnel and operation. The lender is required to complete the form and return it with the appropriate annual renewal fees to the VA regional office.

(Authority: 38 U.S.C. 501(a), 3702(d))

(e) Lender fees. To participate as a VA automatic lender, non-supervised lenders of the class described in 38 U.S.C. 3702(d)(3) shall pay fees as follows:

- (1) \$500 for new applications;
- (2) \$200 for reinstatement of lapsed or terminated automatic authority;
- (3) \$100 for each underwriter approval;
- (4) \$100 for each agent approval;
- (5) A minimum fee of \$100 for any other VA administrative action pertaining to a lender's status as an automatic lender;
- (6) \$200 annually for certification of home offices; and
- (7) \$100 annually for each agent renewal.

\* \* \* \* \*

5. In § 36.4349, paragraph (a)(2) is revised to read as follows:

**§ 36.4349 Withdrawal of authority to close loans on the automatic basis.**

(a)(1) \* \* \*

(2) Automatic processing authority may be withdrawn at any time for failure to meet basic qualifying and/or annual recertification criteria.

(i) *Non-supervised lenders.* (A) Automatic authority may be withdrawn for lack of a VA approved underwriter, failure to maintain \$50,000 in working capital or \$250,000 in adjusted net worth, or failure to file required financial information.

(B) During the 1-year probationary period for newly approved lenders, automatic authority may be temporarily or permanently withdrawn for any of

the reasons set forth in this section regardless of whether deficiencies previously have been brought to the attention of the probationary lender.

(ii) *Supervised lenders.* Automatic authority will be withdrawn for loss of status as an entity subject to examination and supervision by a Federal or State supervisory agency as required by 38 U.S.C. 3702(d).

(Authority: 38 U.S.C. 501(a), 3702(d))

\* \* \* \* \*

[FR Doc. 97-18496 Filed 7-14-97; 8:45 am]

BILLING CODE 8320-01-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[DE030-1008b; FRL-5856-2]

#### Approval and Promulgation of Air Quality Implementation Plans; State of Delaware, General Conformity Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

**SUMMARY:** EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Delaware for the purpose of establishing the requirements for determining conformity of general federal actions to applicable air quality implementation plans (General Conformity). In the Final Rules section of this **Federal Register**, EPA is approving Delaware's SIP revision as a direct final rule without prior proposal because the Agency views it as noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments must be received in writing by August 14, 1997.

**ADDRESSES:** Comments may be mailed to David L. Arnold, Chief, Ozone/CO & Mobile Sources Section, Mailcode 3AT21, Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public

inspection during normal business hours at the EPA office listed above; and the Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

**FOR FURTHER INFORMATION CONTACT:** Rose Quinto, (215) 566-2182, at the EPA Region III address above.

**SUPPLEMENTARY INFORMATION:** See the information provided in the Direct Final action of the same title (Delaware General Conformity Rule) which is located in the Rules and Regulations section of this **Federal Register**.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations.

**Authority:** 42 U.S.C. 7401-7671q.

Dated: June 30, 1997.

**Thomas Valtaggio,**

*Acting Regional Administrator, Region III.*

[FR Doc. 97-18565 Filed 7-14-97; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[MS-21-1-9718b; MS-22-1-9719b: FRL-5857-4]

#### Approval and Promulgation of Implementation Plans; Mississippi: Approval of Revisions to the Mississippi State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

**SUMMARY:** On September 30, 1996, the Mississippi Department of Environmental Quality (MDEQ) submitted revisions to the Mississippi State implementation plan (SIP) incorporating changes to Regulation APC-S-1, "Air Emission Regulations for the Prevention, Abatement and Control of Air Contaminants," and to Regulation APC-S-5, "Regulations for the Prevention of Significant Deterioration of Air Quality." Public hearings for these revisions were held on August 20, 1996, and they became state effective September 21, 1996. EPA is approving these amendments because these revisions are consistent with the requirements of the Clean Air Act and EPA guidance.

In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the EPA views this as a noncontroversial