

additional evidence or clarification of the evidence or correction of a procedural defect is essential for a proper appellate decision, but would specify that the Board need not remand a case to clarify procedural matters before the Board, such as the choice of representative, the issues on appeal, or requests for hearings before the Board. The proposed rule would not apply to requests for medical or legal opinions under 38 CFR 20.901, nor to matters in which the Board has original jurisdiction under 38 CFR 20.609 (relating to representatives' fees) and § 20.610 (relating to representatives' expenses), since those cases, by their terms, do not involve adjudications by AOJs.

The public was given 30 days to submit comments. VA received no comments.

Accordingly, based on the rationale set forth in the proposed rule document, we are adopting without change the provisions of the proposed rule as a final rule.

Good cause is found for making this final rule effective on publication. This final rule will help avoid unnecessary remands without causing adverse effects to claimants.

List of Subjects in 38 CFR Part 19

Administrative practice and procedure, Claims, Veterans.

Approved: September 26, 1997.

Hershel W. Gober,

Acting Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 19 is amended as set forth below:

PART 19—BOARD OF VETERANS' APPEALS: APPEALS REGULATIONS

1. The authority citation for part 19 continues to read as follows:

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

2. In subpart A, § 19.9 is revised to read as follows:

§ 19.9 Remand for further development.

(a) *General.* If further evidence or clarification of the evidence or correction of a procedural defect is essential for a proper appellate decision, a Member or panel of Members of the Board shall remand the case to the agency of original jurisdiction, specifying the action to be undertaken. A remand is not required to clarify procedural matters before the Board, including appellant's choice of representative before the Board, the issues on appeal, and requests for hearings before the Board.

(b) *Scope.* This section does not apply to:

(1) The Board's requests for opinions under Rule 901 (§ 20.901 of this chapter);

(2) The Board's supplementation of the record with recognized medical treatises; and

(3) Matters over which the Board has original jurisdiction described in Rules 609 and 610 (sections 20.609 and 20.610 of this chapter).

(Authority: 38 U.S.C. 7102, 7103(c), 7104(a))

[FR Doc. 97-26613 Filed 10-7-97; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 36

RIN 2900-AI92

Loan Guaranty: Requirements for Interest Rate Reduction Refinancing Loans

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) loan guaranty regulations concerning the requirements for Interest Rate Reduction Refinancing Loans (IRRRLs) by generally limiting these loans to instances where the veteran's monthly mortgage payment will decrease, and by generally requiring that the loans being refinanced be current in their payments. This action is necessary to ensure that these loans are made only when they provide a real benefit to the veteran, and to protect the financial interest of the Government.

DATES: Effective Date: This rule is effective October 8, 1997. Comments must be received on or before December 8, 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-AI92." All written comments received will be available for public inspection at the above address, Room 1158, between the hours of 8:00 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, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273-7368.

SUPPLEMENTARY INFORMATION: Under the authority of 38 U.S.C. Chapter 37, VA guarantees loans made by lenders to eligible veterans to purchase, construct, improve, or refinance their homes (the term veteran as used in this document includes any individual defined as a veteran under 38 U.S.C. 101 and 3701 for the purpose of housing loans). This document amends VA's loan guaranty regulations by revising the requirements for VA-guaranteed Interest Rate Reduction Refinancing Loans (IRRRLs).

IRRRLs are designed to assist veterans by allowing them to refinance an outstanding VA-guaranteed loan with a new loan at a lower rate. The provisions of 38 U.S.C. 3703(c)(3) and 3710(e)(1)(C) allow the veteran to do so without having to pay any out-of-pocket expenses. The veteran may include in the new loan the outstanding balance of the old loan plus reasonable closing costs, including up to two discount points. Over the years, IRRRLs have provided nearly one million veterans an opportunity to reduce the interest rates and, thus, the monthly payments on their home mortgages.

We have recently learned that a small number of lenders have been urging veterans to apply for loans under conditions that increase the risk of loss to both the veteran and the Government, and do not provide the benefit that IRRRLs were enacted to give. In some cases, these loans involve exorbitant costs in relation to the small reduction in the interest rate. Thus, veterans actually experience an increase in their monthly payment notwithstanding the lower rate. In other cases, lenders are urging veterans to default on their current loan, then refinance the delinquent loan with a new loan including the past due interest and late charges.

In one case, a veteran obtained a 30-year loan for a new home in Florida in October 1991. The fixed-rate mortgage was for \$95,800 (including funding fee) at the State bond program interest rate of 7.99 percent with a principal and interest payment of \$702.28. In March 1995 he obtained an adjustable rate mortgage (ARM) IRRRL with an initial interest rate of 7.5 percent. This loan was for \$103,950 and had an initial payment amount of \$726.83. It included \$8,912.54 in closing costs, including 5.5 discount points. In January 1997, the ARM interest rate had been adjusted to 8.25 percent, and he obtained another IRRRL for \$111,090 at a fixed interest rate of 8.00 percent and a monthly payment of \$815.14. Thus, in a little

over 5 years he increased his mortgage by \$15,190 and his payment by \$112.84 “both increased by approximately 16 percent” and he still has 30 years to pay.

In order to assist veterans who were delinquent on their original loan to refinance to a lower rate, VA permitted them to include their past due payments in the new loan. Because loan instruments normally provide that any past due interest and late charges are capitalized and added to the loan balance, VA considered such past-due charges to be part of “the balance of the loan being refinanced”, and, therefore, eligible to be refinanced under the provisions of 38 U.S.C. 3710(e)(1). Some lenders have abused this interpretation by actually encouraging veterans to skip a few payments on the old loan and use the cash saved by not making a timely payment for other purposes. One lender went so far as to suggest to prospective borrowers that they skip a few payments and use the money for a summer vacation.

These types of abusive loan practices do not serve the best interests of the veterans involved. They also have an adverse effect on the financial interests of the Government. Since IRRRLs can already result in loans in excess of the value of the property, additional unwarranted increases in the amount by which the loan balance exceeds the market value of the property could further increase VA's loss in the event of default and payment of a claim under the guaranty. Also, an excessive increase in the loan amount could cause a veteran to be unable to sell the home for an amount sufficient to pay off the loan balance.

In order to insure that IRRRLs continue to provide a true benefit to the veteran, and to protect the financial interest of the Government, we are making the following changes to the IRRRL program by revising the provisions of 38 CFR 36.4306a and 36.4337(a).

Monthly Payment Reduction

We generally will require that the monthly payment (principal and interest) on the new loan must be lower than the monthly payment on the loan being refinanced. This will prevent cases in which the veteran's monthly payment actually increases, even though the interest rate is lowered slightly, because extensive closing costs are included in the loan. This requirement does not apply to four situations where VA believes that other factors offset the risk of loss from an increase in monthly payment. These four situations are cases in which an ARM is being refinanced

with a fixed-rate loan; cases in which the term of the new loan is shorter than the term of the loan being refinanced; cases in which the increase in monthly payment is attributable to the inclusion of energy efficient improvements, as provided in § 36.4336(a)(4); and cases in which the Secretary approves the new loan, on a case-by-case basis, in order to prevent an imminent foreclosure. With regard to ARMs, there is already a possibility that the monthly payment will increase in future years. The certainty that the payment on the new loan will not increase in future years offsets the increased risk associated with the immediate increase over the veteran's current payment. VA may establish limits on the amount of such increase in future rule making. Although the monthly payments on shorter term loans are higher, they amortize faster, thus reducing the risk of loss to both the veteran and the Government. In future rule making, VA may address minimum term reduction. Current law allows veterans to include additional costs of energy efficient improvements in IRRRLs; thus, this exception merely continues current law. Finally, with regard to imminent foreclosure, the risk of loss to the Government and veteran from such foreclosure could be greater than permitting a new loan at a higher monthly payment. VA would have to approve each such loan on a case-by-case basis under existing credit underwriting standards set forth at 38 CFR 36.4337 to ensure that it is in the best interest of the Government and that the veteran is able to afford the new payment.

The Loan Must Be Current

To prevent the lender from encouraging borrowers to “skip” mortgage payments and include them in the new loan, we are requiring that in any case where the loan being refinanced is delinquent, the new loan must be submitted to VA for prior approval. VA must determine that the veteran qualifies for the new loan under existing credit standards contained in 38 CFR 36.4337. Under these standards, a veteran must, among other things, demonstrate a proper regard for obligations. If it is found that the veteran purposely failed to make timely payment on the loan in order to use the cash for a vacation or similar discretionary spending, the new loan is unlikely to be approved.

We are clarifying existing VA interpretation that delinquent interest and late charges are considered part of the balance of the loan being refinanced.

Credit Underwriting Standards

We are also making a conforming amendment to 38 CFR 36.4337. That section contains the current credit underwriting standards. Currently, paragraph (a) of that section provides that the standards do not apply to IRRRLs. We are amending this to state the standards do not apply to IRRRLs unless under 38 CFR 36.4306a the loan must be submitted to VA for prior approval. As discussed above, loans to prevent imminent foreclosure where the monthly payment on the new loan exceeds the payments on the loan being refinanced, and cases where the loan being refinanced is delinquent, will now be required to be approved in advance.

Administrative Procedure Act

Pursuant to 5 U.S.C. 553, we have found good cause to dispense with notice and comment on this interim final rule and to dispense with a 30-day delay of its effective date. These findings are based on the critical need to help ensure that veterans are treated fairly by lenders and to protect the financial interests of the Government as guarantor of these loans. Comments are being solicited for 60 days after publication of this document. VA may modify this rule in response to comments if appropriate.

Executive Order 12866

This proposed rule has been reviewed by OMB under Executive Order 12866.

Regulatory Flexibility Act

Because no notice of proposed rule making was required in connection with the adoption of this interim final rule, no regulatory flexibility analysis is required under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

(The Catalog of Federal Domestic Assistance Program number is 64.114)

List of Subjects in 38 CFR Part 36

Condominiums, Handicapped, Housing, Indians, Individuals with disabilities, Loan programs—housing and community development, Loan programs—Indians, Loan programs—veterans, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Veterans.

Approved: August 25, 1997.

Hershel W. Gober,

Acting Secretary of Veterans Affairs.

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

PART 36—LOAN GUARANTY

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

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

2. In § 36.4306a, paragraphs (a)(3) through (a)(5) are revised and paragraphs (a)(6) and (a)(7) are added, to read as follows:

§ 36.4306a Interest rate reduction refinancing loan.

(a) * * *

(3) The monthly principal and interest payment on the new loan must be lower than the payment on the loan being refinanced, except when the term of the new loan is shorter than the term of the loan being refinanced; or the new loan is a fixed-rate loan that refinances a VA-guaranteed adjustable rate mortgage; or the increase in the monthly payments on the loan results from the inclusion of energy efficient improvements, as provided by § 36.4336(a)(4); or the loan is approved by the Secretary in advance after determining that the new loan is necessary to prevent imminent foreclosure and the veteran qualifies for the new loan under the credit standards contained in § 36.4337.

(4) The amount of the refinancing loan may not exceed:

(i) An amount equal to the balance of the loan being refinanced, which must be current, except in cases described in paragraph (a)(5) of this section, and such closing costs as authorized by § 36.4312(d) and a discount not to exceed 2 percent of the loan amount; or

(ii) In the case of a loan to refinance an existing VA-guaranteed or direct loan and to improve the dwelling securing such loan through energy efficient improvements, the amount referred to with respect to the loan under paragraph (a)(4)(i) of this section, plus the amount authorized by § 36.4336(a)(4).

(Authority: 38 U.S.C. 3703, 3710)

(5) In any case where the loan being refinanced is delinquent, the new loan will be guaranteed only if it is approved by the Secretary in advance after determining that the veteran qualifies for the loan under the credit standards contained in § 36.4337. In such cases, the term “balance of the loan being refinanced” shall include any past due installments, plus allowable late charges.

(6) The dollar amount of guaranty on the 38 U.S.C. 3710(a)(8) or (a)(9)(B)(i) loan may not exceed the original dollar amount of guaranty applicable to the loan being refinanced, less any dollar amount of guaranty previously paid as a claim on the loan being refinanced; and

(7) The term of the refinancing loan (38 U.S.C. 3710(a)(8)) may not exceed

the original term of the loan being refinanced plus ten years, or the maximum loan term allowed under 38 U.S.C. 3703(d)(1), whichever is less. For manufactured home loans that were previously guaranteed under 38 U.S.C. 3712, the loan term, if being refinanced under 38 U.S.C. 3710(a)(9)(B)(i), may exceed the original term of the loan but may not exceed the maximum loan term allowed under 38 U.S.C. 3703(d)(1).

(Authority: 38 U.S.C. 3703(c)(1), 3710(e)(1))

* * * * *

3. In § 36.4337, paragraph (a) is revised to read as follows:

§ 36.4337 Underwriting standards, processing procedures, lender responsibility and lender certification.

(a) *Use of standards.* The standards contained in paragraphs (c) through (j) of this section will be used to determine that the veteran's present and anticipated income and expenses, and credit history are satisfactory. These standards do not apply to loans guaranteed pursuant to 38 U.S.C. 3710(a)(8) except for cases where the Secretary is required to approve the loan in advance under § 36.4306a.

(Authority: 38 U.S.C. 3703, 3710)

* * * * *

[FR Doc. 97–26614 Filed 10–7–97; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300552; FRL–5745–2]

RIN 2070–AB78

Glyphosate Oxidoreductase and the Genetic Material Necessary for Its Production in All Plants; Exemption From Tolerance Requirement On All Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes an exemption from the requirement of a tolerance for residues of the plant-pesticide inert ingredients glyphosate oxidoreductase (GOX) and the genetic material necessary for its production in all plants when used as plant-pesticides in or on all raw agricultural commodities (RACs). Monsanto Company submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA) as amended by the Food Quality Protection Act of 1996 (FQPA) requesting the exemption from the requirement of a tolerance. This

regulation eliminates the need to establish a maximum permissible level for residues of this plant-pesticide in or on all RACs.

DATES: This regulation is effective on October 8, 1997. Written objections and requests for hearings must be received by EPA on or before December 8, 1997.

ADDRESSES: Written objections and hearing requests, identified by the docket control number OPP–300552, may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled “Tolerance Petition Fees” and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the docket control number OPP–300552 and submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to:

opp-docket@epamail.epa.gov.

Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number OPP–300552. No Confidential Business Information (CBI) should be submitted through e-mail. Additional information on CBI can be found in VII. of this document. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit VIII. of this document.

FOR FURTHER INFORMATION CONTACT: By mail: Mike Mendelsohn, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and