the Regulatory Flexibility Act (5 U.S.C. chapter 5), please refer to the Special
Analyses section in the preamble to the cross-referenced notice of proposed
rulemaking published in the Proposed
Register. Pursuant to section 7805(f) of
the Code, these regulations have been
submitted to the Chief Counsel for
Advocacy of the Small Business
Administration for comment on their
impact on small business.

Drafting Information
The principal authors of these
regulations are Angella Warren, Office
of the Associate Chief Counsel (Income
Tax and Accounting), and Stephen
Coleman, Office of the Associate Chief
Counsel (Procedure and
Administration). However, other
personnel from the IRS and the Treasury
Department participated in their
development.

List of Subjects in 26 CFR Part 1
Income taxes, Reporting and
recordkeeping requirements.

Amendments to the Regulations
Accordingly, 26 CFR part 1 is
amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation
for part 1 continues to read in part as
follows:
Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.163–11T is amended to
read as follows:

§ 1.163–11T Allocation of certain prepaid
qualified mortgage insurance premiums
(temporary).

(a) Allocation—(1) In general. As
provided in section 163(h)(3)(E),
premiums paid or accrued for qualified
mortgage insurance during the taxable
year in connection with acquisition
indebtedness with respect to a qualified
residence (as defined in section
163(h)(4)(A)) of the taxpayer shall be
treated as qualified residence interest
(as defined in section 163(h)(3)(A)). If an
individual taxpayer pays such a
premium that is properly allocable to a
mortgage the payment of which extends
to periods beyond the close of the
taxable year (prepaid premium), the
taxpayer must allocate the premium to
periods beyond the close of the
taxable year (prepaid premium), the

(b) Scope. The allocation requirement
in paragraph (a) of this section applies
only to mortgage insurance provided by
the Federal Housing Administration or
private mortgage insurance (as defined
by section 2 of the Homeowners
as in effect on December 20, 2006). It
does not apply to mortgage insurance
provided by the Department of Veterans
Affairs or the Rural Housing Service.
Paragraph (a) of this section applies
whether the qualified mortgage
insurance premiums are paid in cash or
are financed, without regard to source.

(c) Cross reference. For rules
concerning the information reporting of
premiums, including prepaid
premiums, see § 1.163–3T.

(d) Effective/applicability date. This
section applies to prepaid qualified
mortgage insurance premiums described
in paragraph (a) of this section paid on
or accrued on or after January 1, 2008,
and on or before December 31, 2010, for
mortgage insurance provided by the
Federal Housing Administration or
private mortgage insurers issued on or

(e) Expiration date. The applicability
of this section expires on May 7, 2012.

Par. 3. Section 1.6050H–3T is amended to
read as follows:

§ 1.6050H–3T Information reporting of
mortgage insurance premiums (temporary).

(a) Information reporting
requirements. Any person who, in the
course of a trade or business receives
premiums, including prepaid
premiums, for mortgage insurance (as
described in paragraph (b) of this
section) from any individual aggregating
$600 or more for any calendar year,
shall make an information return setting
forth the total amount received from
that individual during the calendar year
pursuant to the forms and instructions
prescribed by the Secretary.

(b) Scope. Paragraph (a) of this section
applies to mortgage insurance provided
by the Federal Housing Administration,
Department of Veterans Affairs, or the
Rural Housing Service (or their
successor organizations), or to private
mortgage insurance (as defined by
section 2 of the Homeowners
on December 20, 2006). The rule stated in
paragraph (a) of this section applies
to the receipt of all payments of
mortgage insurance premiums, by cash
or financing, without regard to source.

(c) Aggregation. Whether a person
receives $600 or more of mortgage
insurance premiums is determined on a
mortgage-by-mortgage basis. A recipient
need not aggregate mortgage insurance
premiums received on all of the
mortgages of an individual to determine
whether the $600 threshold is met.
Therefore, a recipient need not report
mortgage insurance premiums of less
than $600 received on a mortgage, even
though it receives a total of $600 or
more of mortgage insurance premiums
on all of the mortgages for an individual
for a calendar year.

(d) Cross reference. For rules
concerning the allocation of certain
prepaid qualified mortgage insurance
premiums, see § 1.163–11T of this
chapter.

(e) Effective/applicability date. This
section applies to mortgage insurance
premiums received on or after January
1, 2008.

(f) Expiration date. The applicability
of this section expires on May 4, 2012.

Linda E. Stiff,
Deputy Commissioner for Services and
Enforcement.

Approved: April 23, 2009.

Bernard J. Knight, Jr.
Acting General Counsel of the Treasury.

DEPARTMENT OF VETERANS
AFFAIRS

38 CFR Part 3
RIN 2900–AN01

Presumptive Service Connection for
Disease Associated With Exposure to
Certain Herbicide Agents: AL
Amyloidosis

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

SUMMARY: This document amends the
Department of Veterans Affairs (VA)
adjudication regulations concerning
presumptive service connection for a
certain disease based on the most recent
National Academy of Sciences (NAS)
Institute of Medicine committee report,
“Veterans and Agent Orange: Update
2006” (Update 2006). This amendment
is necessary to implement a decision of
the Secretary of Veterans Affairs that
there is a positive association between
exposure to herbicides used in the
Republic of Vietnam during the Vietnam
era and the subsequent development of
AL amyloidosis. The intended effect of this amendment is to establish presumptive service connection for AL amyloidosis based on herbicide exposure.

DATES: Effective Date: This amendment is effective May 7, 2009.

Applicability Date: The provisions of this regulation amendment apply to all applications for benefits pending before VA on or received after May 7, 2009. They also apply to review of certain previously denied claims to the extent provided in 38 CFR 3.816.

FOR FURTHER INFORMATION CONTACT: Maya Ferrandino, Regulations Staff (211D), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (727) 319–5847.

SUPPLEMENTARY INFORMATION: On November 3, 2008, VA published in the Federal Register at 73 FR 65280 a proposal to amend 38 CFR 3.309(e) to add AL amyloidosis to the list of diseases presumed service connected based on exposure to herbicide agents. Interested persons were invited to submit written comments on or before January 2, 2009. We received one comment.

Comment
The commenter stated that the proposed rule represents an ideological shift in disease categorization. The commenter stated that the proposed rule does not reflect the current criteria for causality contained in 38 U.S.C. 1116(b), which he stated requires direct evidence between exposure to an herbicide agent and the occurrence of a disease in humans. The commenter stated that the evidence that multiple myeloma and other lymphomas were connected to herbicide exposure was used by the Secretary to connect AL amyloidosis with herbicide exposure and that this process by the Secretary reflects a policy of providing service connection for disease groups rather than for separate diseases. He noted that section 1116(b) allows for service connection for a specific disease rather than for a group of diseases. The commenter stated that should the proposed rule go forward, section 1116(b) and § 3.309(e) should be revised to include service connection for disease entities and that regulations that refer to individual diseases should be reviewed and revised. He stated that the proposed rule could be revised to reflect a presumption of service connection for all diseases characterized by clonal hyperproliferation of B-cell derived plasma cells and production of abnormal amounts of immunoglobulins. The commenter stated that, in the alternative, the proposed rule should be withdrawn because there is no evidence that this disease entity is associated with exposure to herbicides.

Response
As stated in the proposed rule, the Secretary’s determination regarding establishing presumptive service connection for AL amyloidosis is based on NAS’ evaluation and its conclusion that there is limited or suggestive evidence of an association between herbicide exposure and AL amyloidosis. The Secretary did not make any determination concerning any disease other than AL amyloidosis. In this regard, the Secretary has followed the standards in section 1116(b) regarding establishing presumptive service connection for a disease associated with herbicide exposure. The comment states that this rule amends the “causality” criteria of section 1116(b). However, as shown in Update 2006, after quoting the criteria from section 1116(b), “[the NAS committee’s] congressional mandate and its statement of task are phrased in such a way that the target of evaluation is ‘association,’ not ‘causality,’ between exposure and health outcomes.” Update 2006, p. 2.

The commenter’s suggestion that this rule is contrary to section 1116(b) rests on the premise that the rule implicitly establishes a presumption for a group of related diseases, rather than for a specific disease. We do not agree with that premise. As noted above, the NAS and VA each made a finding specific to AL amyloidosis. As the commenter noted, the NAS relied primarily upon studies showing that AL amyloidosis is pathophysiologically related to other diseases that are currently presumed to be associated with herbicide exposure. That analysis, however, should not be interpreted to mean that an association between herbicide exposure and a particular disease justifies a finding of such an association for all similar or related diseases. Rather, the NAS and VA necessarily evaluate the body of relevant evidence for each disease.

The NAS noted that, because AL amyloidosis is a rare condition, “it is not likely that population-based epidemiology will ever provide substantial direct evidence regarding its causation.” Update 2006, p. 474. By statute, the NAS is directed to assess not only statistical associations based on epidemiologic studies, but also other factors (including potential biologic mechanism or other evidence of a causal relationship between herbicide exposure and the disease.” Public Law 102–4, section 3(d)(1)(C). It appears that the NAS may have placed significant weight on the evidence of biologic plausibility in this instance in part because it is unlikely that other forms of relevant evidence for or against an association will ever become available. However, the determinations by NAS and VA concerning AL amyloidosis cannot reasonably be construed to reflect a shift in policy deviating from the requirements of section 1116(b), or to suggest that epidemiologic evidence is irrelevant to determinations concerning other diseases.

To the extent the commenter suggests an amendment to section 1116(b), such action would require legislation and is beyond the scope of this rule. We therefore make no change based on this comment.

VA appreciates the comment submitted in response to the proposed rule. Based on the rationale set forth in the proposed rule and the rationale contained in this document, we are adopting the provisions of the proposed rule as a final rule without change.

Administrative Procedures Act
Substantive changes made by this final rule are required to be effective the date of issuance pursuant to 38 U.S.C. 1116(c)(2). Accordingly, we are dispensing with the delayed effective date provisions of 5 U.S.C. 553.

Paperwork Reduction Act
This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

Regulatory Flexibility Act
The Secretary hereby certifies that this final rule will not 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. This final rule will not affect any small entities. Only VA beneficiaries could potentially be affected. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Order 12866
Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages;
distributive impacts; and equity). The Executive Order classifies a “significant regulatory action,” requiring review by the Office of Management and Budget (OMB), as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this final rule have been examined and it has been determined to be a significant regulatory action under the Executive Order because it is likely to result in a rule that may raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any year. This final rule would have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance Numbers and Titles

The Catalog of Federal Domestic Assistance program numbers and titles for this rule are 64.109, Veterans Compensation for Service-Connected Disability, and 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Veterans, Vietnam.

John R. Gingrich, Chief of Staff, Department of Veterans Affairs.

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

PART 3—ADJUDICATION

§ 3.309 [Amended]

2. In § 3.309(e), the listing of diseases is amended by adding “AL amyloidosis” immediately preceding “Chloracne or other acneform disease consistent with chloracne.”

[FR Doc. E9–10627 Filed 5–6–09; 8:45 am]
BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180


Metconazole; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for the residues of metconazole, including its metabolites and degradates, in or on corn, field, forage; corn, field, grain; corn, field, stover; corn, pop, grain; corn, pop, stover; corn, sweet, forage; corn, sweet, kernel plus cob with husks removed; corn, sweet, stover; cotton, undelinted seed; and cotton, gin byproducts. BASF Corporation requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA). This regulation also establishes tolerances for residues of metconazole, including its metabolites and degradates, in or on canola seed, and eggs. Valent U.S.A. Corporation requested the tolerance for canola seed under the FFDCA. EPA required an additional tolerance for eggs based on findings in the studies submitted by the registrant.

In addition, this action establishes time-limited tolerances for the residues of metconazole, including its metabolites and degradates, in or on sugarcane, cane at 1.6 ppm and sugarcane, molasses at 3.2 ppm, in response to the approval of crisis exemptions declared by the states of Florida and Louisiana under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing the quarantine use of the fungicide on sugarcane to control the fungal pathogen, Puccinia kuehni. This regulation establishes a maximum permissible level of residues in this food commodity. The time-limited tolerances expire and are revoked on December 31, 2011.

DATES: This regulation is effective May 7, 2009. Objections and requests for hearings must be received on or before July 6, 2009, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the SUPPLEMENTARY INFORMATION).

ADDRESSES: EPA has established a docket for these actions under docket identification (ID) number EPA–HQ–OPP–2007–0514 (for BASF Corporation requested tolerances) and EPA–HQ–OPP–2008–0718 (for Valent U.S.A. Corporation requested tolerances). All documents in the docket are listed in the docket index available at http://www.regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at http://www.regulations.gov, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: For further information regarding the tolerances requested by BASF Corporation or Valent U.S.A. Corporation, please contact Tracy Keigwin, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6605; e-mail address: keigwin.tracy@epa.gov. For further information regarding the time-limited tolerance for the use of metconazole on sugarcane, please contact Libby Pemberton, Registration Division (7505P), Office of Pesticide Programs,