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 Rules section in this issue of the **Federal 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 added 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 determine the amount treated as qualified residence interest for each taxable year. The premium must be allocated ratably over the shorter of—

(i) The stated term of the mortgage; or

(ii) A period of 84 months, beginning with the month in which the insurance was obtained.

(2) *Limitation.* If a mortgage is satisfied before the end of its stated term, no deduction as qualified residence interest shall be allowed for any amount of the premium that is allocable to periods after the mortgage is satisfied.

(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 Protection Act of 1998 (12 U.S.C. 4901) 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, for mortgage insurance, see § 1.6050H–3T.

(d) *Effective/applicability date.* This section applies to prepaid qualified mortgage insurance premiums described in paragraph (a) of this section paid 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 after January 1, 2007.

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

■ **Par. 3.** Section 1.6050H–3T is added 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 Protection Act of 1998 (12 U.S.C. 4901) as in effect 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.*

[FR Doc. E9–10662 Filed 5–6–09; 8:45 am]

**BILLING CODE 4830–01–P**

## 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. (This is not a toll-free number.)

**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 such as ''whether there exists a plausible biological 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 be directly 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.

Approved: April 3, 2009.

**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

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

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

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

**§ 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

**[EPA–HQ–OPP–2007–0514; FRL–8408–6]**

### 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 kuehnii*. 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,