

**§ 46.264 Withdrawal of an approval.**

The approval will be withdrawn if revenue is jeopardized or administration of this subpart is hindered. The appropriate TTB officer will give the dealer a written notice of the withdrawal.

**TTB Authorities****§ 46.270 [Reserved]****§ 46.271 Entry, examination and testimony.**

Appropriate TTB officers, in performing official duties, may enter any premises to examine articles subject to floor stocks tax. They may enter the premises during the day or may also enter at night if the premises are open. Appropriate TTB officers may audit and examine all articles, inventory records, books, papers, or other resource data for the purpose of ascertaining, determining, or collecting floor stocks tax. They may take testimony, under oath, of any person when inquiring as to proper payment of floor stocks taxes.

**§ 46.272 Issuance of summons.**

Appropriate TTB officers can issue summonses when there is no referral to the Justice Department under the authority stated in § 70.22 of this chapter. The summons will state a place and time for such items or person to appear. TTB will issue a summons to require:

(a) Any books of account or other data pertaining to liability for floor stocks tax;

(b) Any person liable for the floor stocks tax or having possession of books of account or other data; and

(c) Any other appropriate person in connection with the books or tax liability.

**§ 46.273 Refusing entry or examination.**

If the dealer or another person in charge of the premises refuses to admit any appropriate TTB officer or prevents any appropriate TTB officer from examining the records or articles, the dealer may be liable for the penalties described in 26 U.S.C. 7342 or 7212.

**§ 46.274 Penalties for failure to comply.**

If the dealer fails to follow the regulations set forth in this subpart, TTB may apply applicable civil and criminal penalties under the Internal Revenue Code of 1986. For example, failure to file and failure to pay penalties may be assessed against the dealer if the dealer does not timely file the tax return or timely pay the taxes due. In addition, interest under 26 U.S.C. 6621 accrues for any underpayment of tax and on all assessed penalties until paid.

**PART 71—RULES OF PRACTICE IN PERMIT PROCEEDINGS**

■ 29. The authority citation for part 71 is revised to read as follows:

**Authority:** 26 U.S.C. 5271, 5181, 5712, 5713, 7805, 27 U.S.C. 204.

■ 30. Section 71.46 is revised to read as follows:

**§ 71.46 Suspension and revocation of tobacco permits.**

Whenever the appropriate TTB officer has reason to believe that any person has not in good faith complied with any of the provisions of 26 U.S.C. chapter 52 or regulations issued thereunder, or has not complied with any provision of 26 U.S.C. which involves intent to defraud, or has violated any of the conditions of his permit, or has failed to disclose any material information required, or has made any materially false statement, in the application for his permit, or has failed to maintain his premises in such manner as to protect the revenue, or is, by reason of previous or current legal proceedings involving a felony violation of any other provision of Federal criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, not likely to maintain operations in compliance with 26 U.S.C. chapter 52, or has been convicted of a felony violation of any provision of Federal or State criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, the appropriate TTB officer shall issue a citation for the revocation or suspension of such permit.

(72 Stat 1421, as amended; 26 U.S.C. 5713)

■ 31. Section 71.49b is revised to read as follows:

**§ 71.49b Denial of application for tobacco permit.**

The appropriate TTB officer may issue a citation for the contemplated disapproval of an application for a tobacco permit provided for in 26 U.S.C. 5713, if the appropriate TTB officer on examination of the application has reason to believe—

(a) The premises on which it is proposed to conduct the business are not adequate to protect the revenue;

(b) The applicant for a permit does not meet the minimum manufacturing and activity requirements in § 40.61 of this chapter; or

(c) The applicant (including, in the case of a corporation, any officer, administrator, or principal stockholder and, in the case of a partnership, a partner) is, by reason of his business experience, financial standing, or trade

connections, or by reason of previous or current legal proceedings involving a felony violation of any other provision of Federal criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, not likely to maintain operations in compliance with 26 U.S.C. chapter 52, or has been convicted of a felony violation of any provision of Federal or State criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, or has failed to disclose any material information required or made any material false statement in the application.

(72 Stat. 1421, as amended; 26 U.S.C. 5712)

Signed: March 10, 2009.

**John J. Manfreda,**

*Administrator.*

Approved: March 12, 2009.

**Timothy E. Skud,**

*Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).*

[FR Doc. E9-7077 Filed 3-27-09; 11:15 am]

**BILLING CODE 4810-31-P**

**DEPARTMENT OF VETERANS AFFAIRS****38 CFR Part 3****RIN 2900-AN04****Posttraumatic Stress Disorder**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document affirms an amendment to the Department of Veterans Affairs (VA) adjudication regulations regarding service connection for posttraumatic stress disorder (PTSD) that eliminated the requirement of evidence corroborating occurrence of the claimed in-service stressor in claims in which PTSD is diagnosed in service. This amendment is necessary to facilitate proof of service connection in such claims. By this amendment, we intend to more quickly adjudicate claims for service connection for PTSD for these veterans.

**DATES:** The interim final rule became effective on October 29, 2008, and is applicable to claims pending before VA on the effective date of that rule, as well as to claims filed after that date.

**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, (272) 319-5847. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** On October 29, 2008, at 73 FR 64208, VA published an interim final rule amending 38 CFR 3.304(f) to relax the requirement for establishing service connection for PTSD that was diagnosed in service. We added a new paragraph to provide that, if the evidence shows that a veteran's PTSD was diagnosed during service and the claimed stressor is related to that service, in the absence of clear and convincing evidence to the contrary, and provided that the claimed stressor is consistent with the circumstances, conditions, or hardships of the veteran's service, the veteran's lay testimony alone may establish the occurrence of the claimed in-service stressor.

We provided a 30-day comment period that ended November 28, 2008. We received one comment. The commenter supported the relaxed standards for providing benefits for veterans who were diagnosed with PTSD while in service, but objected to requiring a veteran to show a stressor consistent with the circumstances, conditions, or hardships of the veteran's service. The commenter felt that the requirement was especially troublesome in a theater of combat such as Iraq where combat is experienced by troops with varying military occupational specialties and who, because of the circumstances of their service, may not be able to corroborate or establish the circumstances or conditions of their stressors.

We make no change based on this comment. The language to which the commenter objects is mandated by 38 U.S.C. 1154(a). Section 1154(a) requires VA to include in regulations pertaining to service connection of disabilities provisions requiring VA to consider "the places, types, and circumstances" of a veteran's service when deciding a claim for service connection. Also, the inclusion of that language in the regulation makes it parallel to 38 U.S.C. 1154(b) in ensuring that the stressor claim is plausible in light of what is known of the veteran's service.

VA appreciates the comment submitted in response to the interim final rule. Based on the rationale stated in the interim final rule and in this document, we now affirm as a final rule the amendments made by the interim final rule.

#### **Administrative Procedure Act**

This document affirms without any changes amendments made by an interim final rule that is already in effect. Accordingly, we have concluded under 5 U.S.C. 553 that there is good cause for dispensing with a delayed

effective date based on the conclusion that such procedure is impracticable, unnecessary, and contrary to the public interest.

#### **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 would 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 not to be a significant regulatory action under Executive Order 12866.

#### **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 an 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 consequential 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, Pensions, Radioactive materials, Veterans, Vietnam.

Approved: March 23, 2009.

**John R. Gingrich,**

*Chief of Staff, Department of Veterans Affairs.*

#### **Part 3—ADJUDICATION**

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

The interim final rule amending 38 CFR Part 3 that was published at 73 FR 64208 on October 29, 2008, is adopted as a final rule without change.

[FR Doc. E9–7229 Filed 3–30–09; 8:45 am]

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#### **DEPARTMENT OF DEFENSE**

##### **GENERAL SERVICES ADMINISTRATION**

##### **NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

#### **48 CFR Part 52**

[FAC 2005–31; FAR Case 2006–032; Item I; Docket 2007–0002; Sequence 11]

RIN 9000–AK78

##### **Federal Acquisition Regulation; FAR Case 2006–032, Small Business Size Rerepresentation**

#### *Correction*

In rule document E9–5871 beginning on page 11821 in the issue of Thursday,