

# **AGENT ORANGE PRIMER 2010**

**A Review of the Conditions and Benefits**

**Linked to Agent Orange Exposure**

**Editor: Bob Kozel**

# **Table of Contents**

## **1.0 Introduction**

1.1 Brief History of Agent Orange Use and Follow on Health Studies

## **2.0 Agent Orange and Service Connected Benefits**

2.1 Diseases of Veterans Who Served In Vietnam

2.2 Diseases of the Children of Male Veterans of Vietnam

2.3 Diseases of the Children of Female Veterans of Vietnam

2.4 Post Traumatic Stress Disorder, PTSD

## **3.0 Special Benefits Consideration**

3.1 The Veteran

3.1a Earlier Claims

3.1b The Need to Reopen Claims

3.1c Concurrent Pay

## **3.2 Spouse Benefits**

3.2a Compensation

3.2b Education

3.2c Preference Points

3.2d Health Care

3.2e Other Benefits

3.3 Children

3.3a Compensation

3.3b Education

3.3c Health Care

3.3d Special Considerations

## **4.0 Agent Orange Details**

4.1 Agent Orange Registry

4.2 Agent Orange Lawsuit

4.3 Agent Orange HOT LINE

## 4.4 Agent Orange 2010 Updates

### **5.0 Other Details**

5.1 Diabetes and Sight Loss

5.2 Reflections on PTSD

5.3 CFR Citation (on herbicides)

5.4 Comments on Applying for Service Connection

Annex 1: Prostate Cancer

Annex 2: Navy Ships Considered Brown Water

Annex 3: Agent Orange in Thailand Update

## **1.0 Introduction**

The year 2009 was a busy one in the Agent Orange arena. In a flurry of activity four new conditions became recognized as presumptive for Agent Orange. The action continue in 2010 as the ships defined as "Brown Water" continues to expand (see Annex 2) and new information came out on Agent Orange exposure in Thailand (see Annex 3).

Agent Orange exposure covers the veterans who were in country from January 9, 1962 to May 7, 1975. Veteran exposed in 1968 and 1969 in Korea are also covered in this document (see explanation below). In 2006 the Department of Defense, DoD, provided a partial list of other locations where Agent Orange has been used. In 2009 the VA included to a very extensive website on Agent Orange usage that included the original DoD list, but also greatly expanded the information available on Agent Orange usage. The links below include the Agent Orange homepage, and the website for other areas where Agent Orange was used.

<http://www1.va.gov/agentorange/>

The specific list can be found at:

<http://www.publichealth.va.gov/exposures/agentorange/basics.asp#outside>

Finally, expect more updates and changes as the list of ships continue to expand, and there are new revelations about where Agent Orange was used.

Bob Kozel, July 2010

## **1.1 Brief History of Agent Orange Use and Follow on Health Studies**

During the war in Vietnam the military used chemical agents to do away with the jungle vegetation. At the time of use no one realized that this could have harmful effects on humans. The chemicals were shipped in barrels with coding stripes. Agent Orange comes from the orange stripes on the barrels.

After the war the Air Force was tasked to do follow up studies on the effects on chemical on the troops. Three studies were done and the results were very controversial. By the mid 1990's it was clear that Vietnam veterans were having health side effects due to Agent Orange exposure.

Studies continue on the effects of Agent Orange. In 2002 type 2 diabetes was Service Connected to Agent Orange. In 2003 a form of leukemia was also linked to Agent Orange exposure. Children of veterans who served in Vietnam (and Korea in 1968 and 1969 near the DMZ) could also be service connected for birth defects. This was the first time offspring of veterans had ever been considered for their own direct service connected benefits.

In 2005 studies reconfirmed the link between Agent Orange and type 2 diabetes. However, findings in other areas were inconclusive. In 2009 four additional conditions became presumptive to Agent Orange exposure. Go to section 4.4 for more recent updates on Agent Orange.

## **2.0 Agent Orange and Service Connected Benefits**

One day in country during the war constitutes exposure to Agent Orange.\* This is not always as clear as it may sound. Many veterans of the Navy never went ashore, though they were in the waters around Vietnam. Other veterans were never acknowledged to be in Vietnam due to the nature of the units they served in. This can make proving a claim very difficult.

The Department of Defense has announced that Agent Orange was used in Korea in 1968 and 1969 along the demilitarized zone (DMZ). Veterans who served along the DMZ in those years are encouraged to put in claims.

There are other locations where the Defense Department acknowledges Agent Orange use. The VA has asked for more information from DOD to help expand eligibility for claims from other locations.

\* In 2006 this definition of service in Vietnam was set aside by the Court of Veterans Appeals, COVA. COVA did not offer a new definition, but felt that this was too narrow a definition because it excluded "Blue Water" Navy personnel potentially exposed. This decision was appealed by the VA, and the COVA decision overturned. For more on this ruling and the current status of Blue Water Navy Vietnam veterans go to section 4.4 below.

We are recommending that all Navy personnel who have a Vietnam Service Medal, VSM, to apply for service connection if they have one of the presumptive conditions linked to Agent Orange exposure (see below). As part of your claim we recommend including documentation of your VSM. Unless, something changes in the near future, the claim will be turned down, but in the future would be covered under Nehmer (see explanation in Section 3.1a) if the VA reverses its rules on exposure.

## 2.1 Diseases of Veterans Who Served In Vietnam

**Editor's Note:** I took the following from the VA website on Presumptive Conditions linked to Agent Orange exposure. If you are reading this electronically, the links will take you to more information on the specific condition. At the time we went to press, some were hyperlinked. The VA website can be found at:

<http://www.publichealth.va.gov/exposures/agentorange/diseases.asp>

- **[Acute and Subacute Transient Peripheral Neuropathy](#)**  
A nervous system condition that causes numbness, tingling, and motor weakness. Under VA's rating regulations, it must be at least 10% disabling within 1 year of exposure to Agent Orange and resolve within 2 years after the date it began.
- 
- **[AL Amyloidosis](#)**  
A rare disease caused when an abnormal protein, amyloid, enters tissues or organs.
- 
- **B Cell Leukemias**  
Cancers which affect B cells, such as hairy cell leukemia.
- 
- **[Chloracne](#)**  
A skin condition that occurs soon after dioxin exposure and looks like

common forms of acne seen in teenagers. Under VA's rating regulations, it must be at least 10% disabling within 1 year of exposure to Agent Orange.

- 
- **Chronic Lymphocytic Leukemia**  
A disease that progresses slowly with increasing production of excessive numbers of white blood cells.
- 
- **Diabetes Mellitus (Type 2)**  
A disease characterized by high blood sugar levels resulting from the body's inability to respond properly to the hormone insulin.
- 
- **Hodgkin's Disease**  
A malignant lymphoma (cancer) characterized by progressive enlargement of the lymph nodes, liver, and spleen, and by progressive anemia.
- 
- **Ischemic Heart Disease**  
A disease characterized by a reduced supply of blood to the heart.
- 
- **Multiple Myeloma**  
A cancer of specific bone marrow cells that is characterized by bone marrow tumors in various bones of the body.
- 
- **Non-Hodgkin's Lymphoma**  
A group of cancers that affect the lymph glands and other lymphatic tissue.
- 
- **Parkinson's Disease**  
A motor system condition with symptoms that include trembling of the limbs and face and impaired balance.
- 
- **Porphyria Cutanea Tarda**  
A disorder characterized by liver dysfunction and by thinning and blistering of the skin in sun-exposed areas. Under VA's rating regulations, it must be at least 10% disabling within 1 year of exposure to Agent Orange.
- 
- **Prostate Cancer**  
Cancer of the prostate; one of the most common cancers among men. There is more on Prostate Cancer in Annex 1.
- 
- **Respiratory Cancers**  
Cancers of the lung, larynx, trachea, and bronchus.

### **Soft Tissue Sarcoma (other than Osteosarcoma, Chondrosarcoma, Kaposi's sarcoma, or Mesothelioma)**

A group of different types of cancers in body tissues such as muscle, fat, blood and lymph vessels, and connective tissues.

## **2.2 Diseases of the Children of Male Veterans of Vietnam**

**Spina Bifida:** a devastating spinal birth defect that affects the children of some Vietnam veterans.

For more information on Spina Bifida benefits go to:

<http://www.va.gov/hac/forbeneficiaries/spina/spina.asp>

For a short time period **Acute myelogenous leukemia** was considered a disease of the offspring of Agent Orange veterans. This has since been rescinded based on new scientific research.

## **2.3 Diseases of the Children of Female Veterans of Vietnam**

In 2009 the VA posted an excellent website on Birth Defects and issues related to Agent Orange. It can be found at:

[http://www.publichealth.va.gov/exposures/agentorange/birth\\_defects.asp](http://www.publichealth.va.gov/exposures/agentorange/birth_defects.asp)

Achondroplasia (produces a type of dwarfism)

Cleft palate and cleft lip

Congenital heart disease

Congenital talipes equinovarus (clubfoot)

Esophageal and intestinal atresia

Hallerman-Streiff syndrome (prematurity, small growth and other defects)

Hip dysplasia

Hirschsprung's disease (congenital megacolon)

Hydrocephalus due to aqueductal stenosis

Hypospadias (abnormal opening in the urethra)

Imperforate anus

Neural tube defects

Poland syndrome (webbed fingers and other birth defects)

Pyoric stenosis

Syndactyly (fused digits)  
Tracheoesophageal fistula  
Undescended testicles  
Williams syndrome (linked to thyroid activity, multiple defects)

NOTE: In December of 2003 these same service connections were extended to the children of veterans who served at the DMZ in Korea in 1968 and 1969.

For more information on benefits for children of female veterans exposed to Agent Orange go to the following website:

<http://www.vba.va.gov/bln/21/Milsvc/Docs/CWVVMoney4.doc>

## **2.4 Post Traumatic Stress Disorder, PTSD**

PTSD is not caused or linked to Agent Orange. Estimates of PTSD for Vietnam veterans run as high as 30%. PTSD can have devastating affects on the veteran and the family. It may make convincing the veteran to attend or participate in rehab services very difficult.

Newer treatments for PTSD seem to work. They often involve medications. It can be a challenge for the veterans to take medications regularly. (See section 5.2 below for more on PTSD).

## **3.0 Special Benefits Consideration**

To establish a service connected claim based on exposure to Agent Orange a veteran has to demonstrate being in country (Vietnam) for at least one day. The same is true of the DMZ in Korea.

### **3.1 The Veteran**

Most of the items linked to Agent Orange exposure no longer have time windows for application for service connection. This was reaffirmed in 2004 by an Institute of Medicine's study on the cancers linked to Agent Orange. A person can apply for service connection for the remainder of their life. The exception would be peripheral neuropathy, which would have to show up within one year. However, if the veteran had diabetes that was service connected, the form of peripheral neuropathy connected to diabetes could be linked as a secondary effect of the diabetes.

One question some individuals have is: If some people would have developed diseases such as diabetes or prostate cancer anyways, why service connect them?

It is true that in a group of veterans statistically some would develop diabetes and prostate cancer. Research has shown that the rate was higher in Vietnam veterans or that exposure to certain chemical agents definitely can cause certain diseases. Also, there is a chance that Agent Orange contributes to much more severe cases of the disease. This last point is not a proven scientific point, but a nasty possibility.

**Editor's Note:** A recent study by the Department of Defense suggested that the recurrence of prostate cancer is more likely for individuals exposed to Agent Orange. See Annex 1 for more information.

Claims for Agent Orange are handled just like other claims. The veteran needs a diagnosis and medical proof. They must also show that they were in Vietnam for one day (or meet the burden of proof for Navy veterans). If their DD 214 does not make this clear, or their unit was not assigned to Vietnam, then the veteran may need statements to show that they were in Vietnam.

### **3.1a Earlier Claims**

A number of veterans applied for service connection, especially for type 2 diabetes prior to diabetes being recognized as linked to Agent Orange. Due to court decisions the VA must go back and recognize those (and other Agent Orange) claims from the initial filing.

This decision is a result of a 13 year long series of class action suits against the VA. The person listed in the suite was Beverly Nehmer, and the resulting action is known as "Nehmer". Under the Nehmer clause three principles came out:

1. A person could receive back pay to the original date of a claim
2. A person **could not receive** interest on the back pay
3. The estate of a person could receive benefits under this principle. This might include back pay and the right to benefits such as Dependency Indemnity Compensation

**Editor's Note:** A veteran might consider applying for service connection for certain conditions such as cancers that are not currently recognized as being presumptive with Agent Orange. The thought is that they might be service connected in the future.

### **3.1b The Need to Reopen Claims**

The term 100% sounds final. A solution cannot be any more than 100% of some one thing. Often veterans do not understand that there are levels of 100% beyond the basic rating. They do not understand the need to reopen their claim and document additional disabilities.

What is the benefit in reopening claims?

First, it allows the possibility of special monthly compensation. This could mean additional dollars.

Second, when a claim involves vision it may trigger a benefit such as Auto Grant, or Special Housing Grant, which is a large lump sum payment towards an auto or housing modifications.

Third, if a veteran is not rated Permanent and Total it is important to work towards this rating, and to document potential conditions that could cause death. Payments from the VA to the spouse and family might hinge on dying of service connect cause or being rated Permanent and Total for a certain time period. Also, VA benefits such as CHAMPVA (healthcare for dependents) and dependent education benefits (Chapter 35) might be based on a Permanent and Total rating.

Finally, a rating that leans more heavily towards Agent Orange related items may have an effect on a military retirees rate of Combat Related Special Compensation, CRSC, (see below).

### **3.1c Concurrent Pay**

Concurrent Pay has been undergoing evolution since 2003. The National Defense Act of 2008 called for some additional changes in CRSC (see below).

There currently are two types of Concurrent Pay:

Veterans who served 20 years in the military are eligible for Concurrent Receipt of their retirement pay in addition to their VA compensation if they fall into one of the following categories:

CRDP- Concurrent Retirement and Disability Payments, which is paid to individuals with 50% service connection or higher.

CRSC - Combat Related Special Compensation, which is paid for any battlefield related injury 10% or higher for which the veteran is receiving compensation. The veteran must apply for this through their branch of service.

The National Defense Act of 2008 included provisions for Chapter 61 retirees (those who were medically retired before 20 years) if their injuries were combat related. It also called for adjustments for those veterans who were on Individual Unemployability dating back to January 2005.

All of this has become very complicated. CRDP is granted automatically to a retiree through joint cooperation by DoD and the VA. A veteran must apply for CRSC. To apply the veteran must fill out a **DD 2860**. An individual does not collect both CRDP and CRSC, they collect whichever is of greater value.

For more information on CRDP the veteran would contact Defense Finance and Accounting Service at: 1800 321 1080

Or write:

Defense Finance and Accounting Service  
Cleveland Center  
Retired Pay Department (FRCCBB)  
PO BX 99191  
Cleveland, OH 44199-1126

To apply for CRSC the DD 2860 (April 08 is the latest version as we go to press) is submitted through their branch of service. They may also contact their service branch for more information on CRSC and eligibility. The DD 2860 has the correct services sites to submit the form.

In 2008 a DoD website for CRSC appeared. It provides links to the other services and a link to download a DD 2860. This can be found at:

<http://www.defenselink.mil/prhome/mppcrsc.html>

**Editor's Note:** Below is information for major branches of service. It was correct at the time we went to press. Check the DD 2860 to make sure of the specific location of where you are to send the form. Also, check the links to see if anything has been updated.

## **ARMY:**

U.S. Army Human Resources Command U.S.  
ATTN: AHRC-DZB-CRSC  
200 Stovall Street  
Alexandria, VA 22332-0470  
Toll-free: (866) 281-3254  
Or visit: <https://www.hrc.army.mil/site/crsc/index.html>

## **NAVY AND MARINE CORPS:**

Secretary of the Navy  
Council of Review Boards  
ATTN: Combat Related Special Compensation Branch  
720 Kennon Street SE, Suite 309  
Washington Navy Yard, DC 20374-5023  
(Toll free 1-877-366-2772)  
<http://www.donhq.navy.mil/corb/crscb/crscmainpage.htm>

## **AIR FORCE:**

United States Air Force  
Disability Division (CRSC)  
HQ AFPC/DPPDC  
550 C Street West, Suite 6  
Randolph AFB, TX 78150-4708  
1-800-525-0102 (this will be the general customer service number as of 1 Feb 2009).

<http://www.afpc.randolph.af.mil/library/combat.asp>

## **COAST GUARD:**

Commander (adm-1-CRSC)  
U.S. Coast Guard  
Personnel Command  
4200 Wilson Boulevard, Suite 1100  
Arlington, VA 22203-1804  
(Toll-free at 1-800-772-8724)

All CRSC payments are tax exempt. It is considered a disability type payment, not a retirement payment. This has large implications for tax purposes.

The definition of battlefield injuries falls into two categories. The first is direct injury, the type Purple Hearts are awarded for. The second is conditions or injuries linked to battlefield action. This would cover Agent Orange exposure.

### **Concurrent Pay for Spouses**

Spouses of military retirees have three possible government retirement sources to consider:

Social Security

Survivor Benefits Plan, SBP

Dependency Indemnity and Compensation, DIC

SBP is an annuity that the veteran pays into so that the surviving spouse can receive a percentage of their military retirement pay.

For more information on SBP go to: <http://www.military.com/benefits/survivor-benefits/survivor-benefit-plan-explained>

DIC is paid by the VA. It is for the survivors of a service connected veteran if the death met one of the following conditions:

- Military service member who died while on active duty, OR
- Veteran whose death resulted from a service-related injury or disease, OR
- Veteran whose death resulted from a non service-related injury or disease, and who was receiving, or was entitled to receive, VA Compensation for service-connected disability that was rated as totally disabling
  - for at least 10 years immediately before death, OR
  - since the veteran's release from active duty and for at least five years immediately preceding death, OR
  - for at least one year before death if the veteran was a former prisoner of war who died after September 30, 1999.

For more information on DIC go to: <http://www.military.com/benefits/survivor-benefits/dependency-and-indemnity-compensation>

Originally there were monetary offsets for individuals who eligible for Social Security, SBP and DIC.

As of 2008 a widowed spouse or a military retiree was able to collect Social Security and the full amount of the Department of Defense's Survivor Benefit Plan, SBP. Many retirees have dropped SBP, it is important to check on open seasons for re-entry into the program and cost for buy backs.

The first SBP – DIC payment offset appeared in 2008 as part of the provisions in the National Defense Act. Congress acted again in 2009, increasing the amount of the offset and funding the payment until 2017. However, Congress did not do away with the offset (in the 2009 Congressional session). The sum of money the offset has been reduced by is relatively small.

There was the first step offset of 50 dollars monthly starting in October of 2008. There is a provision for a 10 dollar a month increase for the next 5. This was increased with a new payment schedule in 2009. It is recommended if you are eligible you check with DFAS on the most current information.

In a separate court action (resolved in 2009) surviving spouse who re-married after the age of 57 were able to collect both DIC and SBP. They would draw one based on the death of the first spouse, and the second based on the death of the second. It is a relatively small group of people affected by this, but those who supported this effort saw it as another step in doing away with the offset.

### **3.2 Spouse Benefits**

For many years the public perception of the VA has been linked with the World War 2 or Korean War veteran. This perception is changing in large part due to the infusion of veterans from Operation Enduring Freedom and Operation Iraqi Freedom.

This is not meant to overlook the large number of Vietnam era veterans who make use of VA health care. The Vietnam era stretches over a large time frame. Veterans from that era include individuals served only one enlistment at the very end of the war all the way to individuals who were of the World War 2 era at the very end of their military careers when they served in Vietnam. This translates to a great diversity in the age of surviving spouses.

Agent Orange veterans may be as young as their late 50's. Today, there may be cases where the veteran was working only months before and was forced to quit due to health. Health care for the spouse may have been made available through the veteran's job. The spouse may be well below Medicare age and for the first time in decades find themselves with no health insurance.

**NOTE: In the review of benefits below we are talking in terms of the veteran being 100% service connected and Permanent and Total as far as his or her disability. It could be due to Unemployability or Permanent and Total type rating that is clearly 100%.**

### **3.2a Compensation**

The spouse will receive no compensation as long as the veteran is alive. However, the veteran will draw compensation. When the veteran dies the spouse could be eligible for Dependency Indemnity Compensation. It is important that they understand the program. This program has Housebound and Aid and Attendance rates also, few spouses are even aware of these provisions.

### **3.2b Education**

The granting of 100% service connection or death from a service connected cause can open a window of education benefits for the spouse. The loss of income from the veteran's job could make education a consideration.

Dependent's education is covered in what is referred to as Chapter 35. There is a new GI Bill that started in 2009 referred to as Chapter 33. Part of this may be transferable to family members. However, most Vietnam era veterans will not have served into the time frame where they are eligible for this consideration.

**NOTE:** Eligibility for education benefits is opened once for a ten year period\*. If it opens upon granting of 100%, it does not reopen later if the veteran dies of a service connected cause later. If a veteran rated less than 100% dies of a service connected cause the education window will open for the first time for the spouse.

\* Individuals may have heard of some spouses being eligible for up to 20 years to use education benefits. This is linked to a 2004 law change that addressed the spouses of servicemembers who died on active duty. The 20 year provision only covers this group of spouses.

An excellent pamphlet on Chapter 35 benefits is available at:

[http://www.gibill.va.gov/pamphlets/Ch35/CH35\\_Pamphlet.pdf](http://www.gibill.va.gov/pamphlets/Ch35/CH35_Pamphlet.pdf)

We urge spouse to check with Regional Office so that they can clarify the details in their own specific case.

### **3.2c Preference Points**

A spouse can apply through Regional Office to use the veteran's preference points in the event the veteran is no longer able to work due to a service connected disability rated at 100%. Again, if the spouse finds that they are back in the workforce, or the major breadwinner this could be an important consideration.

### **3.2d Health Care**

The spouse may be eligible for CHAMPVA as a health care provider. This could be critical if there is no other health care in the family. CHAMPVA is now an extended benefit that can be used past Medicare age in the CHAMPVA for Life program.

The spouse of a military retiree is likely to be covered by the TRICARE health program and ineligible for CHAMPVA.

### **3.2e Other Benefits**

With the granting of 100% service connection comes PX and Commissary privileges. There are other perks and privileges that are linked to being rated 100% service connected many have to do with use of Department of Defense facilities.

## **3.3 Children**

Children of Vietnam veterans (and the DMZ in Korea) are going to find that they are in one of two categories:

The vast majority will receive benefits through their veteran parent. This includes additional compensation for a dependent, health care, and education benefits. For many this will end when they reach 18. For some it will continue through their post high school education years, and end when their education is completed. For a few who have severe disabilities before the age of 18, they may remain the dependent of the veteran for life, and collect Dependency Indemnity Compensation when the veteran dies.

The second group of children has health conditions that are linked to the veteran's exposure to Agent Orange (refer to section 2.2 and 2.3 above). These children are themselves service connected and have their own benefits. These benefits include:

### **3.3a Compensation**

Compensation is not paid at the same rate as a veteran's compensation. A separate tiered scale is used. Application for benefits are made through Regional Office following the normal criteria for evidence.

### **3.3b Education**

A child in this category will receive the same education benefits that a dependent child eligible for VA education benefits would receive.

### **3.3c Health Care**

These children will be eligible for health care funded by the VA for life.

### **3.3d Special Considerations**

Would a service connected child with spina bifida be eligible for Blind Rehab services from the VA?

This has not been tested – yet. It is my guess that they would be eligible for this service if they wished to pursue it. But, there is no precedence in such a case.

There is an excellent website covering this at:

<http://www.va.gov/HAC/forbeneficiaries/spina/spina.asp>

## **4.0 Agent Orange Details**

### **4.1 Agent Orange Registry**

Vietnam veterans and veterans from Korea who served in the DMZ area can be tested and placed on the Agent Orange Registry. What does this mean in practical terms?

The registry is a database used for health care comparisons. It is vital in research, but not in the individual's claim process. This might sound confusing, but here is a practical example:

Diabetes was shown to be service connected by doing a comparative study between veterans who served in Vietnam and those who did not, all having served in the same time frame. The VA can use the registry for statistical information for

Vietnam veterans. A veteran is doing a great service research wise by going through the registry process.

**EDITOR'S NOTE:** The findings of a Registry exam can be used in the claim process as evidence. This is information in the VA system and easy to access by VA Regional Office.

#### **4.2 Agent Orange Lawsuit**

A class action suit was filed in 1979 on behalf of Agent Orange exposed veterans against the chemical companies that had produced Agent Orange. The suit was settled in 1985 and paid approximately 180 million dollars to 50,000 veterans. Well over 2 million veterans were exposed to Agent Orange.

#### **4.3 Agent Orange HOT LINE: 1 800 749 8387**

The VA sends out a regular bulletin on Agent Orange. It is titled Agent Orange Review. A veteran can enroll for the bulletin by calling the hotline. The hot line will also answer questions and provide information.

The Agent Orange Review is available online at:

<http://www1.va.gov/agentorange/page.cfm?pg=16>

#### **4.4 Agent Orange 2010 Updates**

The year 2009 proved to be a very active one for Agent Orange concerns.

- Navy Service off the Vietnam coast:

This issue took a dramatic turn in January 2010 when the VA started to build a database of ships that were considered "Brown Water." This means that these vessels functioned in the harbors and rivers of Vietnam and that duty on these types of ships, or duty on a specific ship at a specific time is the equivalent of 24 consecutive hours in country. A list of the vessels involved is included in Annex 2. It is important to note that this is a dynamic list that is potentially growing as more information is collected. So, if you are a veteran who believes you saw action in the harbor or river areas of Vietnam and your ship is not included, you should file and provide with your claim specific information about the vessel and where you were, and information on the dates involved.

This issue of the rest of the Navy in the Gulf of Tonkin remains unresolved. The VA has not expanded inclusion of these veterans after the Court of Veterans Appeals decision. Congressman Filner has introduced legislation to include those veterans who served off shore (there are more details with the bill). He did this in 2008 also and the bill failed to get out of committee. The drawback of a solution by legislation is that it does away with the Nehmer principle. Possible service connection will begin on the date of the new legislation. However, this approach is a solution to the dilemma of the Blue Water Navy veterans.

- Four new conditions were moved to Presumption status with Agent Orange, these included:

- AL Amyloidosis
  - B-Cell Leukemia
  - Ischemic Heart Disease
  - Parkinson's Disease

- Agent Orange use in Guam and Okinawa:

In July of 2009 the Board of Veterans Appeals denied a claim of presumptive service connection in Guam. This case received a great deal of attention on some of the websites on Agent Orange (independent websites, not the VA). The 2009 case was based on the premise that just being in Guam was enough to warrant Agent Orange exposure. This was not the premise of the two earlier, approved cases involving Guam and Okinawa, where veterans provided specific details on their Agent Orange exposure leading the Board of Veterans Appeals to grant service connection.

Neither Okinawa nor Guam was included on the DoD list of Agent Orange use. The website below covers the two cases mentioned above and also covers a case in Thailand. DoD has already released that certain areas of Thailand were sprayed. However, this case hinged on an individual who worked on the equipment used to spray Agent Orange as his exposure.

To review these cases go to:

<http://www.2ndbattalion94thartillery.com/Chas/guambva.htm>

Agent Orange has long been rumored to have been used at Panama and **Johnston Island**. This has never officially been confirmed.

- In July of 2007 a report came from the Institute of Medicine of a possible link between Agent Orange exposure and high blood pressure. No further considerations have come out on this yet.
- Since 1998, a committee that reviews medical evidence produces an Agent Orange update every two years. The 2008 committee began work with a summer conference in San Antonio, and their report through the Institute of Medicine will appear in 2009. Past reports are available by doing a search for "Agent Orange" at the National Academies Press website:

<http://www.nap.edu/>

## **5.0 Other Details**

### **5.1 Diabetes and Sight Loss**

One of the earliest symptoms of diabetes can be blurred vision. This blurred vision can be caused by the lens of the eye swelling in response to high blood sugar. This is not permanent and goes away when blood sugar is in control.

Vision may be affected when a person is in very low blood sugar. The field of vision may actually narrow. Low blood sugar has other serious affects including influencing judgment. A person may not even realize they are in low blood sugar and do nothing to correct it. Low blood sugar can lead to the loss of consciousness and even more serious complications.

But, these are not the long-term effects of diabetes on vision. The blood vessels in the back of the eye and in the kidneys are some of the very finest in the body. Blood vessels high in glucose content are rigid and over time tend to damage these blood vessels. They leak and cause fatty deposits on the Retina. These are referred to as cotton-wool spots (because of their appearance).

Blood vessels can actually start to break and cause bleeding into the eye. In most cases the intervention of choice to stop bleeding has been the use of a laser.

Though the laser effectively stops bleeding portions of the retina are damaged and there is permanent vision loss.

The body in an attempt to adjust might promote the growth of new blood vessels. These tend to be frail and break easily creating additional bleeding. Many of the new treatments that involve injections and medication implants are to address the problem of new blood vessel growth and the additional problems they bring.

The best intervention the individual can do to save their eyesight is effective control of your blood sugar. This is done through diet, medications, stress reduction, and exercise.

Your doctor may want you to be doing regular finger sticks (using a glucometer). Large print or a talking glucometers are options for visually impaired individuals.

### Progression of Medications

Individuals with diabetes usually have a medications treatment that follows something like this:

- Exercise and Meal Planning with the goal of possible weight loss
- Diabetes Pills
- Multiple Pills used together
- Insulin added to pill therapy
- Increased insulin dose and frequency if shots

NOTE: Diabetes is a cause of one type of Glaucoma. This type involves the growth of new blood vessel growth and may be referred to as neo-vascular. It is important to have this type defined if the veteran is going to reopen a claim based on glaucoma and diabetes service connection.

## **5.2 Reflections on PTSD**

**The National Comorbidity Survey Report (NCS) provided the following information about PTSD in the general adult population:**

The estimated lifetime prevalence of PTSD among adult Americans is 7.8%, with women (10.4%) twice as likely as men (5%) to have PTSD at some point in their lives. This represents a small portion of those who have experienced at least one traumatic event; 60.7% of men and 51.2% of women reported at least one traumatic event. The most frequently experienced traumas were:

- Witnessing someone being badly injured or killed
- Being involved in a fire, flood, or natural disaster
- Being involved in a life-threatening accident
- Combat exposure

The majority of the people in the NCS experienced two or more types of trauma. More than 10% of men and 6% of women reported four or more types of trauma during their lifetimes.

The traumatic events most often associated with PTSD in men were rape, combat exposure, childhood neglect, and childhood physical abuse. For women, the most common events were rape, sexual molestation, physical attack, being threatened with a weapon, and childhood physical abuse.

However, none of these events invariably produced PTSD in those exposed to it, and a particular type of traumatic event did not necessarily affect different sectors of the population in the same way.

The NCS report concluded that "PTSD is a highly prevalent lifetime disorder that often persists for years. The qualifying events for PTSD are also common, with many respondents reporting the occurrence of quite a few such events during their lifetimes."

**The National Vietnam Veterans Readjustment Survey (NVVRS) report provided the following information about PTSD among Vietnam War veterans:**

The estimated lifetime prevalence of PTSD among American Vietnam theater veterans is 30.9% for men and 26.9% for women. An additional 22.5% of men and 21.2% of women have had partial PTSD at some point in their lives. Thus, more than half of all male Vietnam veterans and almost half of all female Vietnam veterans-about 1,700,000 Vietnam veterans in all-have experienced "clinically serious stress reaction symptoms."

15.2% of all male Vietnam theater veterans (479,000 out of 3,140,000 men who served in Vietnam) and 8.1% of all female Vietnam theater veterans (610 out of 7,200 women who served in Vietnam) are currently diagnosed with PTSD.

("Currently" means 1986-88 when the survey was conducted.)

## **The NVVRS report also contains these figures on other problems of Vietnam veterans:**

Forty percent of Vietnam theater veteran men have been divorced at least once (10% had two or more divorces), 14.1% report high levels of marital problems, and 23.1% have high levels of parenting problems.

Almost half of all male Vietnam theater veterans currently suffering from PTSD had been arrested or in jail at least once-34.2% more than once-and 11.5% had been convicted of a felony.

The estimated lifetime prevalence of alcohol abuse or dependence among male theater veterans is 39.2%, and the estimate for current alcohol abuse or dependence is 11.2%. The estimated lifetime prevalence of drug abuse or dependence among male theater veterans is 5.7%, and the estimate for current drug abuse or dependence is 1.8%.

For more information you can go to the following Website:

<http://www.ncptsd.va.gov/ncmain/index.jsp>

### **5.3 CFR Citation**

The following is the section of the 38 CFR 3.309, *Disease subject to presumptive service connection* that covers Agent Orange exposure. At the time this went to press, 38 CFR had not been updated yet to reflect the new presumptive service connections from 2009. Those changes are addressed through memorandums from the Secretary of the Veterans Administration.

(e) *Disease associated with exposure to certain herbicide agents.* If a veteran was exposed to an herbicide agent during active military, naval, or air service, the following diseases shall be service-connected if the requirements of §3.307(a)(6) are met even though there is no record of such disease during service, provided further that the rebuttable presumption provisions of §3.307(d) are also satisfied.

- Chloracne or other acneform disease consistent with chloracne
- Type 2 diabetes (also known as Type II diabetes mellitus or adult-onset diabetes)
- Hodgkin's disease
- Multiple myeloma
- Non-Hodgkin's lymphoma
- Acute and subacute peripheral neuropathy
- Porphyria cutanea tarda

Prostate cancer  
Respiratory cancers (cancer of the lung, bronchus, larynx, or trachea)  
Soft-tissue sarcoma (other than osteosarcoma, chondrosarcoma, Kaposi's sarcoma, or mesothelioma)

**Note 1:** The term *soft-tissue sarcoma* includes the following:

Adult fibrosarcoma  
Dermatofibrosarcoma protuberans  
Malignant fibrous histiocytoma  
Liposarcoma  
Leiomyosarcoma  
Epithelioid leiomyosarcoma (malignant leiomyoblastoma)  
Rhabdomyosarcoma  
Ectomesenchymoma  
Angiosarcoma (hemangiosarcoma and lymphangiosarcoma)  
Proliferating (systemic) angioendotheliomatosis  
Malignant glomus tumor  
Malignant hemangiopericytoma  
Synovial sarcoma (malignant synovioma)  
Malignant giant cell tumor of tendon sheath  
Malignant schwannoma, including malignant schwannoma with rhabdomyoblastic differentiation (malignant Triton tumor), glandular and epithelioid malignant schwannomas  
Malignant mesenchymoma  
Malignant granular cell tumor  
Alveolar soft part sarcoma  
Epithelioid sarcoma  
Clear cell sarcoma of tendons and aponeuroses  
Extraskeletal Ewing's sarcoma  
Congenital and infantile fibrosarcoma  
Malignant ganglioneuroma

**Note 2:** For purposes of this section, the term acute and subacute peripheral neuropathy means transient peripheral neuropathy that appears within weeks or months of exposure to an herbicide agent and resolves within two years of the date of onset.

## 5.4 Comments on Applying for Service Connection

There is now a clearly established precedent for applying for service connection for exposure to Agent Orange in Vietnam or Korea. However, it is clear that

individuals have been exposed to Agent Orange at other locations throughout the world. How should a veteran approach those claims?

It seems clear that the burden of showing a logical exposure from the cases in Guam, Okinawa, and Thailand demonstrate that just being in country is not the key to winning the case. The individual has to show how their activity brought them in contact to areas where Agent Orange was used, or in contact with Agent Orange equipment used for spraying.

Consider this in writing your claim. If you worked on the flight line and the perimeter was cleared by Agent Orange use, you may have a possible claim. If you jogged on Guam, then you need to include where you jogged and how you now know it was in or near the area that Agent Orange was used to clear the flight line or fields. Being in Guam alone will not win your case.

Consider using statements of witnesses. There may be people from your unit that can corroborate that Agent Orange was used to clear the fields.

It is highly recommended that you submit copies of the existing Board of Veteran Appeals cases (see website below) as part of your evidence. Also, reading them, might provide you insight as to if you have a valid claim.

<http://www.2ndbattalion94thartillery.com/Chas/guambva.htm>

It is also highly recommended that you file, even if you feel your exposure was in areas such as Panama and **Johnston Islands**. These are locations that DoD has never indicated that Agent Orange was used. Under Nehmer, you would be establishing the date of your original claim.\*

Finally, it is recommended that you seek the assistance of a service organization in filing. These cases are not likely to be settled at Regional Office. They may need to be appealed and move up the ladder. Representation is a good thing to have.

\* If this matter is resolved by legislation, such as the bill by Congressman Filner, then Nehmer will not apply, and the veteran will have to re-apply once the legislation is passed. Congressman Filner's original 2009 bill did include Johnston Islands exposure.

## **Annex 1: Prostate Cancer**

Prostate cancer and the possible increase in the recurrence of prostate cancer is a serious concern for individuals exposed to Agent Orange. Below is a brief article that was found on the Internet that is in the public domain, it can be found at:

<http://www.renalandurologynews.com/PCa-Recurrence-Agent-Orange-Linked/article/35714/>

### **Agent Orange Raises Vietnam Vets' Risk of Recurrent Prostate Cancer**

May 21 (HealthDay News) -- Exposure four decades ago to Agent Orange in the Vietnam War appears to boost veterans' risk for a recurrence of prostate cancer even after the organ is surgically removed, a new study shows.

And if the cancer does return, it tends to be more aggressive among veterans exposed to Agent Orange than in those not exposed to the chemical defoliant, the researchers found.

Black veterans are especially vulnerable to these tough-to-treat recurrences, the researchers said.

"This means that we need to make sure that these patients are not lost to follow-up, that their PSAs [prostate specific antigen levels] are checked regularly and that Vietnam veterans are screened aggressively for prostate cancer," said lead researcher Dr. Sagar Shah, a urology resident physician at the Medical College of Georgia. "The quicker that we catch [a recurrence], the more treatment options we have."

Shah's team was to present its findings Sunday at the annual meeting of the American Urological Association, in Anaheim, Calif.

Agent Orange was used to clear dense jungle cover during the Vietnam War. It contains dioxin, which, Shah said, "isn't really a tumor mutagen -- it doesn't *cause* cancer -- but it is a tumor-promoter. So, if the cancer is there, it makes it more prominent."

Exposure to dioxin and Agent Orange has long been linked to increased risks for a variety of malignancies, including leukemias, lymphomas, prostate cancer and lung tumors, according to Phil Kraft, program director for the National Veterans Services Fund, which lobbies on behalf of U.S. veterans.

"Agent Orange -- and its bad-guy ingredient, dioxin -- affects everyone who is exposed genetically," he said.

In the new study, Shah's team sought to determine if there were any differences in the rate or type of prostate cancer recurrences seen among a group of 1,653 black and white Vietnam veterans -- 199 of whom had been exposed to Agent Orange. All of the veterans were treated

after first being diagnosed with prostate cancer between 1990 and 2006. Their treatment included surgical removal of the prostate gland.

Examination of biopsy samples under a microscope showed no pathological differences between the tumors of men exposed to Agent Orange and those who were not exposed, Shah said.

Differences did emerge, however, when the researchers compared rates of "biochemical recurrence."

Biochemical recurrence means that blood levels of the marker prostate-specific antigen -- produced by prostate cancer cells -- rose sharply and steadily in the months after surgery. Doctors routinely test men for their blood levels of PSA to help spot prostate cancer.

In this study, the shorter the time it took for a man's PSA level to double, the more aggressive his cancer appeared to be, Shah explained.

Veterans exposed to Agent Orange "had a higher relative risk of having a biochemical recurrence" than unexposed veterans, Shah said.

The rate of post-surgical prostate cancer recurrence among white veterans rose by 42 percent if they had been exposed to Agent Orange, compared to non-exposed veterans, the researchers found. Black veterans exposed to the herbicide fared even less well, with a recurrence rate that was 75 percent higher than their non-exposed peers.

And when prostate cancer did recur among veterans exposed to Agent Orange, "it seemed that they had a much shorter PSA doubling time, a surrogate for aggressiveness," Shah said.

Among black men with a cancer recurrence, PSA levels doubled in just nine months for those exposed to Agent Orange, compared to 16 months for those unexposed to the toxin.

Why might black Vietnam veterans be most vulnerable? Numerous studies conducted among the general population have already suggested that genetics or other factors put black American men at higher prostate cancer risk compared to whites.

In addition, black troops serving in Vietnam "were also more likely to have higher levels of exposure than whites," Shah noted. "They were more likely to be ground troops and less likely to be officers away from Agent Orange exposure," he said.

What does it all mean in terms of veteran's health? "When you are counseling patients on their treatment options, this is something that you can make them aware of -- that this puts you at higher risk for a recurrence," Shah said.

Shah stressed that the study did *not* look at recurrence rates for prostate cancer patients treated with methods other than surgery -- for example, with radiation. "We just don't know about those outcomes," he said.

"However, if he has surgery, the patient and I need to be on the same page, and I need to say, 'You have to make sure that you come in for your regular PSA test,' " Shah said. "We really have to be aware of this."

Kraft agreed that veterans' health deserves closer scrutiny, and he said that the experiences of the men and women who served in Vietnam have much to teach today's physicians and policymakers.

"We are the guys who are learning the lessons," said Kraft, himself a Vietnam veteran. "We hope we're passing that knowledge on to the Persian Gulf, Iraqi Freedom and Afghanistan veterans."

SOURCES: Sagar Shah, M.D., urology resident, Medical College of Georgia, Augusta; Phil Kraft, program director, National Veterans Services Fund, Darien, Conn; May 20, 2007, presentation, American Urological Association annual meeting, Anaheim, Calif.

**For more information on prostate cancer and Agent Orange, you can do a Google search using these terms:**

Prostate Cancer, or  
Prostate Cancer and Agent Orange, or  
Recurrence of Prostate Cancer and Agent Orange

## **Annex 2: Navy Ships Considered Brown Water**

### **From VA's Jan 2010 Comp and Pension bulletin Policy (211) Information on Vietnam Naval Operations**

Compensation and Pension (C&P) Service has initiated a program to collect data on Vietnam naval operations for the purpose of providing regional offices with information to assist with development in Haas related disability claims based on herbicide exposure from Navy Veterans. To date, we have received verification from various sources showing that a number of offshore "blue water" naval vessels conducted operations on the inland "brown water" rivers and delta areas of Vietnam. We have also identified certain vessel types that operated primarily or exclusively on the inland waterways. The ships and dates of inland waterway service are listed below. If a Veteran's service aboard one of these ships can be confirmed through military records during the time frames specified, then exposure to herbicide agents can be presumed without further development.

All vessels of Inshore Fire Support [IFS] Division 93 during their entire Vietnam tour USS Carronade (IFS 1) USS Clarion River (LSMR 409) [Landing Ship, Medium, Rocket] USS Francis River (LSMR 525) USS White River (LSMR 536)

All vessels with the designation LST [Landing Ship, Tank] during their entire tour [WWII ships converted to transport supplies on rivers and serve as barracks for brown water Mobile Riverine Forces]

All vessels with the designation LCVP [Landing Craft, Vehicle, Personnel] during their entire tour

All vessels with the designation PCF [Patrol Craft, Fast] during their entire tour [Also called Swift Boats, operating for enemy interdiction on close coastal waters]

All vessels with the designation PBR [Patrol Boat, River] during their entire tour [Also called River Patrol Boats as part of the Mobile Riverine Forces operating on inland waterways and featured in the Vietnam film "Apocalypse Now"]

USS Ingersoll (DD-652) [Destroyer] [Operated on Saigon River, October 24-25, 1965]

USS Mansfield (DD-728) [Destroyer] [Operated on Saigon River August 8-19, 1967 and December 21-24, 1968]

USS Richard E. Kraus (DD-849) [Destroyer] [Operated on coastal inlet north of Da Nang, JUN 2-5, 1966, protecting Marines holding a bridge]

USS Basilone (DD-824) [Destroyer] [Operated on Saigon River, MAY 24-25, 1966]

USS Hamner (DD-718) [Destroyer] [Operated on Song Lon Tao and Long Song Tao Rivers, AUG 15-SEP 1, 1966]

USS Conway (DD-507) [Destroyer] [Operated on Saigon River, early AUG 1966]

USS Fiske (DD-842) [Destroyer] [Operated on Mekong River, JUN 16-21, 1966]

USS Black (DD-666) [Destroyer] [Operated on Saigon River, JUL 13-19, 1966]

USS Providence (CLG-6) [Cruiser, Light, Guided Missile] [Operated on Saigon River 3 days during JAN 1964]

USS Mahan (DLG-11) [Guided Missile Frigate] [Operated on Saigon River OCT 24-28, 1964]

USS Okanogan (APA-220) [Attack Transport] [Operated on Saigon River JUL 22-23, 29-30, 1968 and AUG 5-6, 1968]

USS Niagara Falls (AFS-3) [Combat Stores Ship] [Unloaded supplies on Saigon River and Cam Ranh Bay, APR 22-25, 1968]. Also, Cam Ranh Bay is a qualifying location for "inland waterway" service.

**In June 2010 the following ships were added:**

**Vessels that operated primarily or exclusively on the inland waterways**

- All U.S. Coast Guard Cutters with hull designation WPB [patrol boat] and WHEC [high endurance cutters]
- USS Mark (AKL-12) [light cargo ship]; USS Brule (AKL-28)
- USS Patapsco (AOG-1) [gasoline tanker]; USS Elkhorn (AOG-7)
- USS Genesee (AOG-8); USS Kishwaukee (AOG-9)
- USS Tombigbee (AOG-11); USS Noxubee (AOG-56)
- USS Okanogan (APA-210) [attack transport]; USS Montrose (APA-212)
- USS Bexar (APA-237)
- USS Benewah (APB-35) [self-propelled barracks ship]; USS Colleton (APB-36)
- USS Mercer (APB-39); USS Nueces (APB-40)
- Barracks Barge (APL-26) [sleeping quarters] ); Barracks Barge (APL-30)
- USS Tutuila (ARG-4) [repair ship]; USS Satyr (ARL-23) [repair ship]
- USS Sphinx (ARL-24); USS Askari (ARL-30); USS Indra (ARL-37)
- USS Krishna (ARL-38)
- USS Belle Grove (LSD-2) [landing ship dock]; USS Comstock (LSD-19)
- USS Tortuga (LSD-26)
- USS Asheville (PG-84) [patrol gunboat]; USS Gallop (PG-85)
- USS Antelope (PG-86); USS Ready (PG-87); USS Crockett (PG-88)
- USS Marathon (PG-89); USS Canon (PG-90)

- Floating Base Platform (YRBM-17) [repair, berthing, and messing barge]
- Floating Base Platform (YRBM-18); Floating Base Platform (YRBM-20)
- Winnemucca (YTB-785) [harbor tug]

**Vessels that operated temporarily on Vietnam's inland waterways or docked to the shore:**

- USS Card (ACV-11) [escort carrier] mined, sunk, and salvaged in Saigon River Harbor during May 1964
- USS Maury (AGS-16) [mapping survey ship] conducted surveys of Mekong Delta and other coastal areas and rivers beginning November 1965 through 1969
- USS Henrico (APA-45) [amphibious attack transport] operated on Hue River during March 1965 and conducted numerous troop landings through March 1967
- USS Montrose (APA-212) operated on Song Hue River during December 1965, operated on Long Tau River during March 1967, and operated on Cua Viet River and at Dong Ha during May 1967
- USS Talladega (APA-208) operated on Saigon River during October 1967
- USS Bolster (ARS-38) [salvage ship] crew operated on land.
- USS Canberra (CAG-2) [guided missile cruiser] operated on Saigon River from March 31 through April 1, 1966, on Cua Viet River during December 15, 1966, and on Mekong Delta Ham Luong River during January 15, 1967
- USS Sproston (DD-577) [destroyer] operated on Mekong Delta and Ganh Rai Bay during January 1966
- USS Picking (DD-685) operated on Saigon River during November 16, 1965
- USS Epperson (DD-719) docked to Da Nang Pier on October 4, 1970
- USS Southerland (DD-743) operated on Song Nga Bay and Saigon River during July 1966
- USS John W. Thomason (DD-760) operated on Nga Be River during 1969
- USS Buck (DD-761) operated on Mekong River Delta and Saigon River during October 1966
- USS Preston (DD-795) operated on Mekong River Delta, Ganh Rai Bay, and Saigon River during September 28 - 29 and December 27 - 29, 1965
- USS Warrington (DD-843) operated on Mekong River Delta Rung Sat Special Zone, North of Vung Gahn Rai Bay during March 1967
- USS Dyess (DD-880) operated on Saigon River and Rung Sat Special Zone from June 19-July 1, 1966
- USS Perkins (DD-877) operated on Saigon River during June 1969
- USS Orleck (DD-886) operated on Mekong River Delta during July 1969
- USS Joseph Strauss (DDG-16) [guided missile destroyer] operated on Mekong River Delta and Ganh Rai Bay during November 7 and December 7, 1968
- USS Waddell (DDG-24) operated on Cua Viet River during March 1967

- USS Newell (DER-322) [radar destroyer escort] docked at port of Nha Trang during December 22-24, 1965
- USS Duluth (LPD-6) [amphibious transport dock] docked to pier at Da Nang during March and October 1971
- USS Cleveland (LPD-7) operated on Cua Viet River and at Dong Ha, as well as Hue River, from November 1967 through 1968 and Saigon River during September 1969
- USS Dubuque (LPD-8) docked at Da Nang on March 15, 1970
- USS Boxer (LPH-4) [amphibious assault ship] docked to pier at Cam Rahn Bay on September 9, 1965
- USS Carter Hall (LSD-3) [landing ship dock] operated on Cua Viet River and at Dong Ha during December 1967

**NOTE:** In filing for service connection based on duty on these vessels, you are instructed to include the letter that follows this section. You can remove the pages from this booklet as use them as the letter, or make a copy.



THE SECRETARY OF VETERANS AFFAIRS  
WASHINGTON

October 19, 2009

The Honorable Daniel K. Akaka  
Chairman  
Committee on Veterans' Affairs  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

This is in response to your letter in which you suggest the Department of Veterans Affairs (VA) explore the development and maintenance of a searchable electronic database to assist decision makers with obtaining evidence in support of Veterans' disability claims. Specifically, a database that provides verification of the location and timeframe of a Veteran's military service may yield credible evidence of a posttraumatic stress disorder (PTSD) stressor or allow for a presumption of exposure to herbicide agents.

We agree that a searchable database containing the specific locations, timeframes, and circumstances of a Veteran's military service would be helpful to VA decision makers. We are working with the Department of Defense as part of the Veteran's Lifetime Electronic Record (VLER) initiative to improve the manner in which this information is captured in each Servicemember's personnel file and is accessed by VA claims processing personnel. Additionally, we added a PTSD stressor verification site to our Compensation and Pension (C&P) Service Intranet webpage for VA regional office use. Although the site does not have a search engine, it contains more than 2,000 declassified military documents that have provided credible evidence in support of stressor statements from Veterans in many PTSD claims.

Further, VA is initiating a plan to assist regional office claims processing personnel in identifying ships that traveled on Vietnam's inland waterways or docked along the coast of Vietnam. This information is relevant for the purpose of establishing qualifying Vietnam service for the presumption of exposure to Agent Orange. If a Veteran was on a ship that traveled on the inland waterways or went ashore while the ship was docked along the shore of Vietnam, then exposure is accepted without further development. The C&P Service will compile official documents and organize a list of these Navy ships along with the dates of inland waterway travel or docking. The list will be made available electronically for nationwide use so that regional offices need not duplicate research efforts regarding ship movements within the Vietnam area of operations.

Page 2.

The Honorable Daniel K. Akaka

These efforts are our initial steps toward our goal of a more comprehensive and searchable database.

Sincerely,



Eric K. Shinseki

### **Annex 3: Agent Orange in Thailand Update**

The following came from a Compensation and Pension update. Veterans who served in Thailand and believe they were exposed under the circumstances described below should consider applying for service connection (provided they have been diagnosed with one of the presumptive conditions linked to Agent Orange).

#### **Herbicide related claims from Veterans with Thailand service**

After reviewing documents related to herbicide use in Vietnam and Thailand, C&P Service has determined that there was significant use of herbicides on the fenced in perimeters of military bases in Thailand intended to eliminate vegetation and ground cover for base security purposes. Evidence of this can be found in a declassified Vietnam era Department of Defense (DoD) document titled *Project CHECO Southeast Asia Report: Base Defense in Thailand*. Therefore, when herbicide related claims from Veterans with Thailand service are received, RO personnel should now evaluate the treatment and personnel records to determine whether the Veteran's service activities involved duty on or near the perimeter of the military base where the Veteran was stationed.

DoD has provided information that commercial herbicides, rather than tactical herbicides, were used within the confines of Thailand bases to control weeds. These commercial herbicides have been, and continue to be, used on all military bases worldwide. They do not fall under the VA regulations governing exposure to tactical herbicides such as Agent Orange. However, there is some evidence that the herbicides used on the Thailand base perimeters may have been either tactical, procured from Vietnam, or a commercial variant of much greater strength and with characteristics of tactical herbicides.

Therefore, C&P Service has determined that a special consideration of herbicide exposure on a facts found or direct basis should be extended to those Veterans whose duties placed them on or near the perimeters of Thailand military bases. This allows for presumptive service connection of the diseases associated with herbicide exposure. The majority of troops in Thailand during the Vietnam era were stationed at the Royal Thai Air Force Bases of U-Tapao, Ubon, Nakhon Phanom, Udorn, Takhli, Korat, and Don Muang. If a US Air Force Veteran served on one of these air bases as a security policeman, security patrol dog handler, member of a security police squadron, or otherwise served near the air base perimeter, as shown by MOS (military occupational specialty), performance evaluations, or other credible evidence, then herbicide exposure should be acknowledged on a facts found or direct basis. However, this applies only during the Vietnam era, from February 28, 1961 to May 7, 1975.

Along with air bases, there were some small Army installations established in Thailand during this period, which may also have used perimeter herbicides in the same manner as the air bases. Therefore, if a US Army Veteran claims a disability based on herbicide exposure and the Veteran was a member of a military police (MP) unit or was assigned an

MP MOS and *states that his duty placed him at or near the base perimeter*, then herbicide exposure on a facts found or direct basis should be acknowledged for this Veteran. The difference in approach for US Army Veterans is based on the fact that some MPs had criminal investigation duties rather than base security duties. Therefore, the Veteran's lay statement is required to establish security duty on the base perimeter. This also applies to US Army personnel who served on air bases in Thailand. During the early years of the war in Vietnam, before Air Force security units were fully established on air bases in Thailand, US Army personnel may have provided perimeter security. In such cases, if the Veteran provides a lay statement that he was involved with perimeter security duty *and there is additional credible evidence supporting this statement*, then herbicide exposure on a facts found or direct basis can be acknowledged for this Veteran.

Evaluation and adjudication of the cases described above can now be conducted by RO personnel without input from the C&P Service Agent Orange Mailbox. These instructions replace those provided in the August 2009 C&P service Bulletin. In summary, no herbicide related claim from a Thailand Veteran should be sent to the C&P Service Agent Orange Mailbox. If evidence shows that the Veteran performed duties along the military base perimeter, ROs should acknowledge herbicide exposure on a facts found or direct basis. If the available evidence does not show service along the base perimeter and does not otherwise indicate exposure to tactical herbicides, place the *memorandum for the record* from M21-1MR IV.ii.2.C.10.q in the claims file and send a request for information to JSRRC.