

## The bill for Agent Orange comes due

By DAVID ROGERS

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Age and Agent Orange are closing in on Vietnam veterans, a legacy of hurt for those who served — and a very big bill for American taxpayers.

It's a world turned upside down from decades ago when returning soldiers had to fight to get attention for deadly lymphomas linked to the herbicide. Now the frailties of men in their 60s — prostate cancer, diabetes, heart disease — lead the list of qualified Agent Orange disabilities, and the result has been an explosion in claims and the government's liability.

The latest expansion, approved by Veterans Affairs Secretary Eric Shinseki in October, adds ischemic heart disease and Parkinson's and will cost at least \$42 billion over the next 10 years. The VA estimates 349,000 individuals are already receiving Agent Orange disability benefits, and that number could soon reach 500,000 — or one out of every four surviving Vietnam veterans by the VA's count.

As the costs rise, so do the questions about the science involved and the box Washington put itself in by failing to address Agent Orange's impact more directly at the outset.

And because Vietnam service is still such a political minefield for American politicians, the most telling, often edgy debate is among veterans themselves.

"It is what it is. The anecdotal evidence of Vietnam veterans dying and getting diseases earlier is enormous," said an exasperated Richard Weidman, an Army medic in the war and now legislative director for Vietnam Veterans of America. "I know five people in the VVA leadership alone who have been diagnosed with Parkinson's. In no other side of my life have I seen anything like that."

Yet for many who saw Vietnam firsthand, a 1-to-4 ratio of service-connected disabilities for Agent Orange strains credibility. And this is especially the case when the top conditions are heart disease and diabetes, two illnesses so linked to diet and lifestyle.

"Heart disease is a common phenomenon regardless of potential exposure to Agent Orange," wrote Sen. Jim Webb (D-Va.) in a June letter to Shinseki challenging the secretary's decision. A decorated Marine infantry officer in the war, Webb has since softened his tone after catching heat for his stance. But with his urging, the Senate Veterans' Affairs Committee has scheduled a hearing for Sept. 23 on the new regulations, slated to take effect by December.

"I just want to understand the logic of how they decided this latest service connection," said Webb. "This is a helluva awkward position to be in where I've been an advocate all my adult life on veterans' benefits. I just want to know how they got to this point."

Backing Webb is Anthony Principi, also a Vietnam veteran, and VA secretary under former President George W. Bush.

"He's gotten some heat, but how can anyone question his patriotism and what he has done?" Principi said of Webb. "It's got to be looked at; it's got to be addressed. ... This is serious. The numbers are dramatic."

“We’re 40 years later and we need to ask, is there a better way to do this? You want to do what’s right for veterans,” he told POLITICO. “At the same time, you want to protect the integrity of the disability compensation program.”

The convergence of cost pressures now is striking as captured by events on Tuesday this week.

That morning, the VA expects the Federal Register to publish the new Agent Orange rules to implement the latest expansion of benefits, including heart disease coverage. And that evening, President Barack Obama will speak to the nation on the U.S. transition between Iraq and Afghanistan, two fresh post-Vietnam wars with their own legacies of new disability claims.

In fiscal 2005, the annual cost of VA’s compensation obligations was \$28.6 billion; for fiscal 2011, the number’s \$48.8 billion — a \$20.2 billion or 71 percent increase.

Still more worrisome is the government’s long-term unfunded liability, a number tucked away in VA’s annual financial reports. The latest for Sept. 30, 2009, shows an unfunded liability of \$1.32 trillion for VA’s compensation and pensions account. That’s up almost \$400 billion from \$924 billion in a matter of five years.

Yet for many Vietnam veterans, now in their 60s and approaching retirement, the tax-free disability payments represent a valuable supplement to Social Security.

In the case of ischemic heart disease, VA is assuming that most claims will be treated as a 60 percent disability, which translates into about \$1064 per month for a married veteran. If the same veteran were already on 20 percent disability for diabetes, the payment could be \$1,333 or almost \$16,000 annually.

The VA calculates that IHD claims will account for three-quarters — about \$31.2 billion — of the 10-year costs associated with the latest expansion. Disability percentages are typically lower for diabetes, but the sheer number of claims — more than 239,000 since 2002 — dwarfs all others before heart disease was added.

For example, prostate cancer generated about 57,300 claims in the same period by VA’s count; lung cancer less than 11,600 and non-Hodgkin’s lymphoma half that.

Congress will have 60 days to review the regulations put forward by Shinseki, but lawmakers already approved a \$13.6 billion down payment to cover retroactive claims related to the secretary’s ruling. And with November’s election around the corner, no one expects a major rollback.

“The horse is out of the barn; it’s a mess.” said one outside scientist who has worked with VA on Agent Orange claims. House Veterans' Affairs Committee Chairman Bob Filner (D-Calif.) would go even further, extending the same disability benefits to thousands more veterans, such as “blue water” sailors - who served on ships off the Vietnam coast.

“We owe this. It’s like a debt in my opinion,” Filner told POLITICO. “My motto is if you were there, we care.”

Indeed few topics touch more raw nerves at once: the bitter history of the Vietnam War, the often bad treatment of soldiers returning and the military’s early refusal to come to grips with the health impacts of its unprecedented use of the herbicide.

Agent Orange, which got its name from the orange-colored band on the storage barrels in Vietnam, was the most common of several dioxin-contaminated herbicide blends employed in Indochina over an almost 10-year period during the war. Literally thousands of tons were sprayed by the U.S. to try to destroy the jungle canopy and mangroves but also to clear tall grasses around American fire support bases.

It follows that exposure was greatest for those assigned to the spraying or in combat infantry units on the ground underneath — a fraction of the total U.S. force. But after a period of denial, the government gave up sorting out military records and said any veteran who put “boots on the ground” in Vietnam from early 1962 to May 1975 would be presumed exposed.

“Do you deny the deserving, or do you include in the presumption those people who may not have been exposed?” adds Dr. Victoria Cassano, a senior VA official dealing with environmental agents and Agent Orange. “The greater evil is to deny people who deservedly should be compensated for diseases because of this exposure.”

But Principi admits he still struggles with his role in what proved a sea change in policy, adding Type 2 diabetes to the list of presumed Agent Orange disabilities. The regulations were among the first order of business on his desk when he arrived in 2001, and from his war experience and prior service in VA, the new secretary brought with him an emotional tie to the late Adm. Elmo Zumwalt, who commanded Navy swift boat forces in Vietnam and watched his own son — a Navy Vietnam veteran as well — die of a cancer that the father attributed to Agent Orange exposure.

“It puts secretaries in a very untenable position,” Principi said. “I didn’t really care about the cost; our responsibility was to take care of veterans. But at the same time, I wanted to make sure the science was there and I just struggled with it.”

In fact, there’s a real disconnect between the outside scientists who advise the VA and the decision makers themselves. Congress can be faulted for the loose standard of proof it set in the 1991 Agent Orange Act to guide the process. But without more science — especially studies of veterans themselves — the integrity of the disability process is vulnerable to attack.

The chief outside actor is the Institute of Medicine within the National Academy of Sciences. Every two years since the mid-90s, IOM has produced detailed reports — volumes as thick as 682 pages with recommendations and updates of what scientists worldwide have learned relevant to Agent Orange’s impact.

Over time, these reports have led to a steady expansion of the diseases presumed to be associated with exposure to the herbicide. But often IOM and VA seem to talk past one another as to what the science means.

“You are asking for the balancing of two different value systems, to come up with an answer and address a harm done to a person,” said Dr. Jeanne Stellman of Columbia University who has done extensive research on Agent Orange. “How do you translate science into law and policy?”

“The decision is very easy if it says no or if it says absolutely. In between is when there is imprecision,” said Dr. Robert Jesse, VA’s principal deputy under secretary for health. And that often comes back to this question: What does IOM really mean when it says there is “limited or suggestive evidence of an association” between a disease and exposure to Agent Orange?

To hear IOM tell it, the category was never meant to be all decisive but more of a middle niche: “Something might be emerging here, something to keep an eye on,” one scientist told POLITICO. Along the same lines, a special IOM panel in 2008 went back and looked at the 2001 decision on diabetes and argued that the VA would have done better to test the association against “high-quality data for a representative cohort of veterans.”

VA officials answer that they are bound by the legal construct of the 1991 Agent Orange Act, which requires the secretary to respond within 60 days to any evidence of a positive association cited by IOM — however tentative.

“We can’t dismiss it,” said Cassano. “We have to take it as a positive association even though it states it as the lowest level of a positive association. We have to consider it credible.”

Asked if she were comfortable, as a scientist, with an end result where one in four Vietnam veterans could soon be getting service-connected Agent Orange disability payments, Cassano didn’t back down.

“Yes,” she said flatly. “We are comfortable with it; it is the right thing to do; it is the legal thing to do. ... When you are working in the VA and you have statutory requirements and basically a directive, a mission to be advocates for veterans, you are therefore bound by those parameters, and it really doesn’t matter much what outside scientists say.”

A closer look at Shinseki’s decision on IHD illustrates some of these conflicts.

It was a 14-member panel for the IOM that set the ball rolling in its 2008 update, released last year. A similar panel in 2006 had been divided on the heart disease question, but after revisiting the question, IOM elevated the illness to the category of “limited or suggestive evidence of association.”

That decision was driven in part by newly published evidence showing a dose-response curve: the greater the exposure to Agent Orange, the greater occurrence of heart ailments. “When you see a dose-response curve, then you are much more inclined to be thinking causal,” said Jesse.

The VA had contributed an important piece with a 2006 study analyzing the incidence of heart disease among Vietnam veterans who had served in the Army Chemical Corps. And Shinseki, who himself served in Vietnam, found that this built on well-established evidence that dioxins present in Agent Orange could damage blood vessels. “Veterans who endure health problems deserve timely decisions based on solid evidence,” he said.

Nonetheless, the leader of the IOM panel, Dr. Richard Fenske of the University of Washington, told POLITICO that he was “surprised by the speed” with which the VA decided to add the presumption for heart disease. And Weidman argued that the department repeatedly ignores what he sees as a central tenet of the 1991 law: that more should be invested in scientific studies of veterans themselves.

“The whole concept of the 1991 law was to leave it to science, not politics, but we haven’t invested in the science in the 20 years since,” he said. In a shot back at Webb, he added: “If you want more scientific data, fund the damn science.”

For all the debate over Agent Orange, what’s most surprising is how little or no effort has been made to track down specific infantry units that operated in the widely sprayed areas of Vietnam.

Instead, decisions are more often dependent on extrapolating data from studies of other populations: European and Asian chemical and agricultural workers, for example. The VA study of the Army Chemical Corps stands out for at least being Vietnam-centric. But even there, the focus did not include the great many more ground troops who were not involved in the actual spraying.

With so many claims on file now, the VA could work backward, identifying which units veterans served with in the war and their location in respect to the spraying. “The associations may be very much stronger if we really had the proximity data of where people served,” Jesse said. But to his frustration, Weidman has found that the VA’s health data is kept in a manner that this is not easily searchable. “They don’t want to know,” he said.

The biggest new effort is an old one: After almost a decade of delay, the VA is preparing to make another run at the long-promised National Vietnam Veterans Longitudinal Study to take a broad view of lasting health problems. A contract is expected to be awarded this fall, and, if successful, this could be the broadest assessment of ongoing Vietnam veteran health problems since the late ‘80s.

But the more lasting impact of the Agent Orange experience may be on the treatment of future veterans — not Vietnam’s.

At the end of a long interview, VA officials perk up most when the subject turns to VLER — their new “virtual lifetime electronic records” initiative to track each future veteran’s health charts from enlistment to grave. Included would be data from the military as to what toxic threats a soldier might be exposed to. “We will be able to know what levels of exposure there were to chemicals,” said Cassano.

And did Agent Orange influence this?

“Oh, certainly it has,” she said.