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VA Citations (Caselaw), Rules and Regulations that are favorable to each of the Listed Medical Issues and Agent Orange

http://www.va.gov/vetapp04/files4/0430798.txt	GERD & Agent Orange
http://www.va.gov/vetapp96/files4/9632347.txt	GERD & Agent Orange
http://www.va.gov/vetapp99/files2/9911496.txt	GERD & Agent Orange
http://www.va.gov/vetapp97/files4/9738587.txt	GERD & Agent Orange
http://www.va.gov/vetapp00/files1/0005989.txt	GERD & Agent Orange
http://www.va.gov/vetapp04/files2/0413908.txt	GERD & Agent Orange
http://www.va.gov/vetapp98/files1/9806416.txt	GERD & Agent Orange
http://www.va.gov/vetapp96/files3/9621324.txt	GERD & Agent Orange
http://www.va.gov/vetapp99/files1/9909941.txt	GERD & Agent Orange
http://www.va.gov/vetapp98/files2/9811350.txt	GERD & Agent Orange
http://www.va.gov/vetapp97/files4/9733456.txt	GERD & Agent Orange
http://www.va.gov/vetapp94/files3/9422227.txt	GERD & Agent Orange
http://www.va.gov/vetapp96/files1/9606460.txt	GERD – PTSD & Agent Orange
http://www.va.gov/vetapp92/files2/9210918.txt	Skin & Agent Orange
http://www.va.gov/vetapp96/files3/9627143.txt	Skin & Agent Orange
http://www.va.gov/vetapp92/files3/9225517.txt	Skin & Agent Orange
http://www.va.gov/vetapp03/files/0319923.txt	Skin & Agent Orange
http://www.va.gov/vetapp03/files/0323058.txt	Skin & Agent Orange
http://www.va.gov/vetapp99/files2/9915255.txt	Skin & Agent Orange
http://www.va.gov/vetapp97/files1/9709001.txt	Skin & Agent Orange
http://www.va.gov/vetapp95/files4/9515429.txt	Skin & Agent Orange
http://www.va.gov/vetapp98/files1/9808824.txt	Skin & Agent Orange
http://www.va.gov/vetapp96/files1/9604086.txt	Skin & Agent Orange
http://www.va.gov/vetapp01/files03/0121037.txt	Skin & Agent Orange
http://www.va.gov/vetapp00/files3/0026340.txt	Skin & Agent Orange
http://www.va.gov/vetapp97/files2/9713863.txt	Skin & Agent Orange
http://www.va.gov/vetapp95/files4/9519546.txt	Skin & Agent Orange
http://www.va.gov/vetapp97/files3/9726914.txt	Skin & Agent Orange
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http://www.va.gov/vetapp96/files2/9619846.txt	Skin & Agent Orange
http://www.va.gov/vetapp97/files2/9713904.txt	Skin & Agent Orange
http://www.va.gov/vetapp00/files2/0018841.txt	Skin & Agent Orange
http://www.va.gov/vetapp99/files1/9909311.txt	Skin & Agent Orange
http://www.va.gov/vetapp02/files02/0207357.txt	Skin & Agent Orange
http://www.va.gov/vetapp03/files/0306094.txt	Skin & Agent Orange
http://www.va.gov/vetapp97/files3/9722899.txt	Skin & Agent Orange
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http://www.va.gov/vetapp99/files2/9910827.txt	Skin & Agent Orange
http://www.va.gov/vetapp01/files03/0118913.txt	Skin & Agent Orange
http://www.va.gov/vetapp92/files2/9217970.txt	Skin & Agent Orange
http://www.va.gov/vetapp94/files1/9406556.txt	Skin & Agent Orange
http://www.va.gov/vetapp00/files3/0028793.txt	Skin Cancer & Agent Orange
http://www.va.gov/vetapp98/files1/9800225.txt	Skin Cancer & Agent Orange

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http://www.va.gov/vetapp96/files2/9611726.txt	Skin Cancer & Agent Orange
http://www.va.gov/vetapp97/files3/9723905.txt	Skin Cancer & Agent Orange
http://www.va.gov/vetapp96/files2/9619846.txt	Skin Cancer & Agent Orange
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http://www.va.gov/vetapp03/files/0319923.txt	Skin Cancer & Agent Orange
http://www.va.gov/vetapp03/files/0318578.txt	Basal Cell Carcinoma & Agent Orange
http://www.va.gov/vetapp97/files2/9719299.txt	Dermatitis & Agent Orange
http://www.va.gov/vetapp97/files4/9731311.txt	Dermatitis & Agent Orange
http://www.va.gov/vetapp04/files/0404789.txt	Dermatitis & Agent Orange
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http://www.va.gov/vetapp99/files2/9914879.txt	Atopic Dermatitis & Agent Orange
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http://www.va.gov/vetapp96/files1/9605461.txt	Dermatophytosis & Agent Orange
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http://www.va.gov/vetapp01/files03/0118553.txt	Dermatophytosis & Agent Orange
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http://www.va.gov/vetapp03/files/0314885.txt	CHLORACNE & Agent Orange
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http://www.va.gov/vetapp97/files2/9719299.txt	CHLORACNE & Agent Orange
http://www.va.gov/vetapp02/files02/0207357.txt	CHLORACNE & Agent Orange

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http://www.va.gov/vetapp03/files/0319943.txt	COPD & Agent Orange
http://www.va.gov/vetapp03/files/0302399.txt	COPD & Agent Orange
http://www.va.gov/vetapp92/files1/9204306.txt	Unemployability & Agent Orange
http://www.va.gov/vetapp98/files1/9804392.txt	Unemployability & Agent Orange
http://www.va.gov/vetapp93/files2/9312518.txt	Unemployability & Agent Orange
http://www.va.gov/vetapp92/files2/9210918.txt	Unemployability & Agent Orange
http://www.va.gov/vetapp01/files01/0102639.txt	Unemployability & Agent Orange
http://www.va.gov/vetapp94/files1/9401890.txt	Unemployability & Agent Orange
http://www.va.gov/vetapp94/files2/9414385.txt	Unemployability & Agent Orange
http://www.va.gov/vetapp95/files5/9521454.txt	Unemployability & Agent Orange
http://www.va.gov/vetapp03/files/0313867.txt	Unemployability & Agent Orange
http://www.va.gov/vetapp03/files/0313867.txt	Unemployability & Agent Orange
http://www.va.gov/vetapp92/files3/9224737.txt	Unemployability & Agent Orange
http://www.va.gov/vetapp92/files2/9214961.txt	Unemployability & Agent Orange
http://www.va.gov/vetapp00/files1/0001012.txt	Unemployability & Agent Orange
http://www.va.gov/vetapp96/files3/9624231.txt	Unemployability & Agent Orange
http://www.va.gov/vetapp95/files2/9506285.txt	Unemployability & Agent Orange
http://www.va.gov/vetapp93/files2/9318722.txt	Unemployability & Agent Orange
http://www.va.gov/vetapp95/files1/9500210.txt	Unemployability & Agent Orange
http://www.va.gov/vetapp03/files/0313867.txt	Unemployability - PTSD & Agent Orange
http://www.va.gov/vetapp03/files/0318578.txt	Skin And Pulmonary Symptomatology & Agent Orange
http://www.va.gov/vetapp98/files3/9822808.txt	chloracne, contact dermatitis, respiratory Disorder, to include a sinus condition, pneumonia, bronchitis, and chronic obstructive pulmonary disease & Agent Orange
http://www.va.gov/vetapp04/files3/0421310.txt	Fort Drum & Agent Orange Dental Trauma & Agent Orange

AGENT ORANGE BRIEFS (FACT SHEETS)

<http://www1.va.gov/agentorange/page.cfm?pg=2>

<http://www.vba.va.gov/bln/21/benefits/herbicide/>

<http://www1.va.gov/opa/fact/Diabetes/index.htm>

<http://www.vfw.org/index.cfm?fa=news.newsDtl&did=1538>

<http://www.koreaatourofduty.com/AgentOrange.html>

<http://www.nvlsp.org/vamustpayretroactive.htm>

<http://www.nvlsp.org/what'snewinvetsbenefits.htm>

PTSD (FACT SHEETS)

<http://www.vva.org/benefits/ptsd.htm>

Benefit Index

<http://www.vba.va.gov/bln/21/Benefits/index.htm>

<http://www.index.va.gov/search/va/bva.html>

<http://www.vba.va.gov/bln/21/Reference/index.htm> Code of Federal Regulations (CFR)

<http://www.gpoaccess.gov/lsa/browse.html> List of CFR Sections Affected (LSA):
Browse (1997 forward)

<http://ecfrback.access.gpo.gov/otcgi/cfr/otfilter.cgi?DB=3&query=38000000014®ion=BIBSRT&action=view&SUBSET=SUBSET&FROM=1&SIZE=10&ITEM=1> 38 CFR Pensions, Bonuses, and Veterans' Relief
CHAPTER I DEPARTMENT OF VETERANS AFFAIRS

<http://caselaw.lp.findlaw.com/cascode/uscodes/38/parts/ii/notes.html> • United States
Code TITLE 38 - VETERANS' BENEFITS PART II - GENERAL BENEFITS

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Websites that will give you research that will be a compass for veterans

<http://www1.va.gov/agentorange/page.cfm?pg=2>

http://www.index.va.gov/search/va/va_search.jsp?CLF=1&SQ=NWP%3Awww.va.gov%2Fvetapp&SN=Board+of+Veterans%27+Appeals+Decisions&VC=bva&FGG=0&DURL=0&DSiz=0&LC=57470&QT=Agent+Orange%2C+Korea%2C+skin%2C+service+condition&PQ=agent+orange%2C+korea%2C+skin&PT=Agent+Orange%2C+Korea%2C+skin&RS=71

<http://www.vba.va.gov/bln/21/benefits/herbicide/>

<http://www1.va.gov/opa/fact/Diabetes/index.htm>

http://www.vetshome.com/Agent_Orange.htm

<http://webisys.vetapp.gov/isysmenu.html>

<http://www.vfw.org/index.cfm?fa=news.newsDtl&did=1538>

<http://www.veterans.com/journalsView.asp?journalid=105183>

<http://www.ussvi.org/veterans/031220b.htm>

<http://www.nvlsp.org/what'snewinvetsbenefits.htm>

http://www.catalaw.com/region/US_Federal.shtml

<http://www.defenselink.mil/sites/v.html>

<http://www.va.gov/vaforms/>

<http://www.findlaw.com/cascode/>

<http://www.gpoaccess.gov/>

<http://www.medicinenet.com/script/main/hp.asp>

<http://www.loc.gov/law/public/law.html>

http://www.archives.gov/facilities/mo/st_louis/military_personnel_records/standard_form_180.html

<http://www.va.gov/publ/direc/pubind.asp>

http://www.va.gov/General/site_map.htm

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<http://www.law.cornell.edu/>

<http://www.koreaatourofduty.com/CampCaseyMap.html>

<http://veterans.house.gov/democratic/welcome.htm>

<http://www.nvlsp.org/nvlsphome.htm>

<http://www1.va.gov/vhapublications/publications.cfm?Pub=1>

<http://www.veteransforcommonsense.org/index.cfm>

<http://www.vetapp.uscourts.gov/>

http://assembler.law.cornell.edu/uscode/html/uscode38/usc_sup_01_38_10_IV_20_51_30_I.html

http://assembler.law.cornell.edu/uscode/html/uscode38/usc_sup_01_38.html

<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?>

[c=ecfr&sid=1853a07be80a2c33e912ef86176fe375&rgn=div5&view=text&node=38:1.0.1.1.4&idno=38](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=1853a07be80a2c33e912ef86176fe375&rgn=div5&view=text&node=38:1.0.1.1.4&idno=38)

<http://ecfrback.access.gpo.gov/otcgi/cfr/otfilter.cgi?>

[DB=3&query=38000000014®ion=BIBSRT&action=view&SUBSET=SUBSET&FROM=1&SIZE=10&ITEM=1](http://ecfrback.access.gpo.gov/otcgi/cfr/otfilter.cgi?DB=3&query=38000000014®ion=BIBSRT&action=view&SUBSET=SUBSET&FROM=1&SIZE=10&ITEM=1)

<http://www.gpoaccess.gov/lsa/browse.html>

<http://www.vba.va.gov/bln/21/Reference/index.htm>

<http://www.index.va.gov/search/va/bva.html>

<http://www.vba.va.gov/bln/21/Benefits/index.htm>

<http://www.vba.va.gov/bln/21/Rates/>

<http://www.vva.org/benefits/ptsd.htm>

http://www.medicinenet.com/asthma_complexities/page2.htm

<http://asthma.nationaljewish.org/about/relationships/>

<http://www.military.com/HomePage/UnitCreatedPage/0,11003,100006,00.html>

<http://www.vfwdc.org/NVS/1nvshomepage.htm>

CHRONIC DISEASE - CONTINUITY OF SYMPTOMATOLOGY

- For the showing of chronic disease in service there is required a combination of manifestations sufficient to identify the disease entity, and sufficient observation to establish chronicity at the time, as distinguished from merely isolated findings or a diagnosis including the word “chronic.” Continuity of symptomatology is required where the condition noted during service is not, in fact, shown to be chronic or where the diagnosis of chronicity may be legitimately questioned. When the fact of chronicity in service is not adequately supported, then a showing of continuity after discharge is required to support the claim. 38 C.F.R. § 3.303(b) (1998). “Indicated a “chronic problem, should have obtained a medical examination or opinion, see 38 U.S.C.A. § 7109 (West 1991); 38 C.F.R. § 3.326, 3.327, 3.328, (1992), as to the relationship of appellant’s in-service and present conditions. See 38 U.S.C.A. § 5107(a) (West 1991).
- In the alternative, the chronicity provisions of 38 C.F.R. § 3.303(b) are applicable where evidence, regardless of its date, shows that a veteran had a chronic condition in service, or during an applicable presumptive period, and still has such condition. Such evidence must be medical unless it relates to a condition as to which under case law of the United States Court of Appeals for Veterans Claims (Court), lay observation is competent. *Savage v. Gober*, Vet. App. 30 488, 498 (1997).
- Service connection may be granted for any disease diagnosed after discharge when all of the evidence, including that pertinent to service, establishes that the disease was incurred in service. 38 C.F.R. § 3.303(d).
- There was continuity of symptomatology after discharge from service that eventually led to the clinical diagnoses of essential hypertension, COPD, reactive airways disease, and skin lesions.
- Alternatively, the nexus between service and the current disability can be satisfied by evidence of continuity of symptomatology and medical or, in certain circumstances, lay evidence of a nexus between the present disability and the symptomatology. See *Savage v. Gober*, Vet. App. 488, 495 (1997).
- Establishing direct service connection for a disability that was not clearly present in service requires the existence of a current disability and a relationship or connection between that disability and a disease contracted or an injury sustained during service. *Cuevas v. Principi*, Vet. App. 542 (1992); *Rabideau v. Derwinski*, Vet. App. 141 (1992).
- If a chronic condition in service and since service is not shown, the claim may still be well grounded on the basis of 38 C.F.R. § 3.303(b) if the condition is observed during service, continuity of symptomatology is demonstrated thereafter, and competent evidence relates a present disorder to that

symptomatology. *Savage v Gober*, Vet. App. 488, 493 (1997).

- To establish service connection for these conditions, a showing of continuity of symptomatology after discharge is required to support the veteran's claim. See 38 C.F.R. § 3.303(b)(1997); *Ivey v. Derwinski*, Vet. App. 320, 323 (1992); *Sanchez v. Derwinski*, Vet. App. 330, 333 (1992).
- Service connection may be established for disability resulting from disease or injury suffered in line of duty. 38 U.S.C.A. § 1110. Service connection may also be granted for certain chronic disabilities, such as arthritis or cardiovascular-renal disease (including hypertension), or peptic ulcers, if such disease is competently demonstrated to have become manifest to a compensable degree within one year from the date of separation from service. 38 U.S.C.A. §§ 1101, 1112, 1113, 1137; 38 C.F.R. §§ 3.307, 3.309. Service connection may also be granted for any disease diagnosed after discharge, when all of the evidence, including that pertinent to service, establishes the disease was incurred in service. 38 C.F.R. § 3.303(d). For a showing of chronic disease in service, there is required a combination of manifestations sufficient to identify a disease entity, and sufficient observation to establish chronicity at the time, as distinguished from merely isolated findings. Continuity of symptomatology is required only where the condition noted during service is not, in fact, shown to be chronic or where the diagnosis of chronicity may be legitimately questioned. When the fact of chronicity in service is not adequately supported, a showing of continuity after discharge is required to support the claim. 38 C.F.R. § 3.303(b).
- The RO must consider whether there was continuity of symptomatology after discharge from service that eventually led to the clinical diagnoses of essential hypertension, COPD, reactive airways disease, brain lesions (if any) and skin lesions (if any).
- The Board concludes that a remand is necessary because the veteran's current medical records fail to indicate whether there was continuity of symptomatology since active service for essential hypertension, presenting symptoms of headaches as signifying the existence of brain lesions, pulmonary dysfunction to include COPD, reactive airways disease and a possible nodule or mass in the left lung, and whether a skin disorder, chronic headaches and/or brain lesions are currently manifested.
- In consideration of the foregoing, the Board is of the opinion that further development of the evidence is desirable. Accordingly, the case is REMANDED for the following actions: Citation Nr: 9811644 Decision Date: 04/15/98 Archive Date: 05/06/98 DOCKET NO. 95-16 695
<http://www.va.gov/vetapp98/files2/9811644.txt>
- The United States Court of Claims for Veterans Appeals (Court) has indicated that a claim may be well grounded based on application of the rule for chronicity and continuity of symptomatology, set forth in 38 C.F.R. § 3.303(b)(1998). The Court held that the

chronicity provision applies here there is evidence, regardless of its date, which shows that a veteran had a chronic condition either in service or during an applicable presumption period and that the veteran still has such a condition. *Savage v. Gober*, 10 Vet.App. 489 (1997). That evidence must be medical, unless it relates to a condition that the Court has indicated may be attested to by lay observation. *Id.* If the chronicity provision does not apply, a claim may still be well grounded or reopened on the basis of 38 C.F.R. § 3.303(b) "if the condition is observed during service or any applicable presumption period, continuity of symptomatology is demonstrated thereafter, and competent evidence relates the present condition to that symptomatology. *Id.* at 498.

- Regarding Agent Orange, the Board notes that a chronic, tropical, or prisoner-of-war related disease, or a disease associated with exposure to certain herbicide agents, listed in 38 C.F.R. § 3.309 will be considered to have been incurred in service under the circumstances outlined in this section even though there is no evidence of such disease during the period of service. No condition other than one listed in 38 C.F.R. § 3.309(a) will be considered chronic. 38 U.S.C.A. §§ 1101, 1112, 1113, 1116; 38 C.F.R. § 3.307(a).
- A chronic, tropical, or prisoner-of-war related disease, or a disease associated with exposure to certain herbicide agents listed in 38 C.F.R. § 3.309 (1996), as amended by 61 Fed. Reg., No. 217, 57586-57589 (November 7, 1996), will be considered to have been incurred in service under the circumstances outlined in this section even though there is no evidence of such disease during the period of service. No condition other than one listed in 38 C.F.R. § 3.309(a) (1996), as amended by 61 Fed. Reg., No. 217, 57586-57589 (November 7, 1996), will be considered chronic.¹
- To establish service connection for these conditions, a showing of continuity of symptomatology after discharge is required to support the veteran's claim. ²
- The veteran asserts that his Asthma and GERD are connected to his sinusitis, chronic with allergic rhinitis, has been aggravated by either a service-connected disorder or medication taken for a service-connected disorder. See *Allen*, the veteran should also to be given the opportunity to obtain and submit any medical evidence that would indicate that his claimed disorder is related to service-connected sinusitis. Copies of any records of ongoing treatment for ASTHMA and GERD and any records of medications for asthma and GERD should be obtained and associated with the claims file. *Murincsak, supra*.
- The veteran has not been given the opportunity to receive any of the Service medical records for the period 1967 to 1970, Outpatient treatment records for the period 1-1988 to September 2003. Attached you will find a total of 7 different requests for records, of the records that the decision where based upon.

1 38 U.S.C.A. § 1101 (West 1991); 38 U.S.C.A. §§ 1112, 1113, 1116 (West 1991 & Supp. 1996); 38 C.F.R. § 3.307(a) (1996), as amended by 61 Fed. Reg., No. 217, 57586-57589 (November 7, 1996).

2 See 38 C.F.R. § 3.303(b)(1997); *Ivey v. Derwinski*, 2 Vet. App. 320, 323 (1992); *Sanchez v. Derwinski*, 2 Vet. App. 330, 333 (1992); *Wilson v. Derwinski*, 2 Vet. App. 16, 19 (1991).

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RESULTS:

Department of Veterans Affairs Medical Center, Albuquerque, New Mexico, USA. The publication is NIH publication number 97-4051, April 1997.

A total of 101,366 case subjects were analyzed. Erosive esophagitis and esophageal stricture were associated with sinusitis (odds ratio, 1.60; 95% confidence interval, 1.51-1.70), pharyngitis (1.48; 1.15-1.89), aphonia (1.81; 1.18-2.80), laryngitis (2.01; 1.53-2.63), laryngeal stenosis (2.02; 1.12-3.65), chronic bronchitis (1.28; 1.22-1.34), asthma (1.51; 1.43-1.59), chronic obstructive pulmonary disease (1.22; 1.16-1.27), pulmonary fibrosis (1.36; 1.25-1.48), bronchiectasis (1.26; 1.09) and pneumonia (1.15; 1.12-1.18) : Department of Veterans Affairs Medical Center, Albuquerque, New Mexico, USA

U.S. Department of Health and Human Services, Public Health Service, National Institutes of Health, NHLBI, 301.592.8573

- Epidemiological evidences and clinical as well as experimental observations have suggested a link between rhinitis and asthma. This relationship between rhinitis (and sinusitis) and asthma also involve other aspects, such as viral infections and bronchial hyperreactivity. The presence of chronic inflammation with Th2 cytokine predominance in sinus tissues should be kept in mind, especially in patients with coexistent morbidities such as allergic rhinitis and asthma.
- This strict link has been evidenced through clinical observations and epidemiological studies and also on the basis of immunological observations and outcomes of therapy. Furthermore, the frequent co-existence of rhinitis and asthma (up to 80 percent of asthmatic patients have co-existing allergic rhinitis, while up to 40 percent of allergic rhinitis patients have asthma, the coexistence of sinusitis and asthma, the presence of rhinitis as a risk factor for developing asthma, further emphasize this link and together lead to the operative definition of Allergic Rhinobronchitis or, Reactive Airways Disease (RAD).
- Scientific evidence supports the concept that rhino, sinusitis and asthma may be the expression of an inflammatory process which appears in different sites of the respiratory tract at different times. The implications are not only academic but are important for diagnostic and therapeutic purposes. The relationships between rhinitis (and sinusitis) and asthma also include non-epidemiological aspects such as viral infections and bronchial hyperreactivity. The hypotheses have been confirmed by means of epidemiological observations, functional and immunological evidence and, indirectly, by observing the effects of drugs used mainly for rhinitis on asthma symptoms.
- **CONCLUSIONS:** Patients with reflux esophagitis are at an increased risk of harboring a large variety of sinus, pharyngeal, laryngeal, and pulmonary diseases.

Remember These Address!

**National Personnel Records Center
9700 Page Avenue
St. Louis, MO 63132-5100**

**CDR, AHRC
Cold War Recognition, Hoffman II
Attn: TAPC-CWRS, 3N45
200 Stovall Street
Alexandria, VA 22332-0473**

Cold War Recognition Certificate

Write a letter and this is an authorized for US!