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10. General Information on Establishing Service Connection for Disabilities Resulting From Exposure to Herbicide Agents

Introduction This topic contains general information on establishing service connection for disabilities resulting from exposure to herbicide agents, including

- the definitions of a *herbicide agent* and *service in the Republic of Vietnam*
- presuming exposure to a herbicide agent
- determining the last date of exposure
- the time limits for disease manifestation
- when to consider direct service connection
- the definition of *acute* and *subacute peripheral neuropathy*
- handling claims based on acute and subacute peripheral neuropathy and later-occurring peripheral neuropathy
- the dates disabilities became subject to presumptive service connection under 38 CFR 3.309(e)
- conditions determined to have no positive association with herbicide exposure
- exposure to herbicides during service aboard the USS Ingersoll
- exposure to herbicides along the demilitarized zone (DMZ) in Korea
- storage of herbicide agents on Johnston Island , and
- Fact Sheet: Storage of Agent Orange on Johnston Island .

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a. Definition: Under [38 CFR 3.307\(a\)\(6\)\(i\)](#), a *herbicide agent* is a chemical used in support of the U.S. and allied military operations in the Republic of Vietnam (RVN) during the Vietnam Era, specifically

Herbicide Agent

- 2,4-D
- 2,4,5-T and its contaminant, TCDD (dioxin)
- cacodylic acid, and
- picloram.

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b. Definition: For the purposes of establishing service connection under [38 CFR 3.307\(a\)\(6\)](#) and [38 CFR 3.309\(e\)](#), *service in the Republic of Vietnam* (RVN) means

Service in the

RVN

- service in the RVN or its inland waterways, or
- service in other locations if the conditions of service involved duty or visitation in the RVN.

Reference: For more information on the definition of service in the RVN, see [VAOPGCPREC 27-97](#).

c. Presuming Exposure to a Herbicide Agent

Presume that a veteran who served on active duty in the RVN during the Vietnam Era was exposed to a herbicide agent *unless* there is affirmative evidence to the contrary.

Note: Any exposure to herbicide agents during service in locations other than Vietnam *must* be established on a factual basis.

Reference: For more information on verifying exposure to herbicides in locations other than Vietnam, see M21-1MR, Part IV, Subpart ii, 2.C.10.1 through o.

d. Determining the Last Date of Exposure

Under [38 CFR 3.307\(a\)\(6\)\(iii\)](#), the last date of exposure is the last date on which the veteran served in the RVN during the Vietnam Era.

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e. Time Limits for Disease Manifestation

In order to establish presumptive service connection, the following diseases listed in [38 CFR 3.309\(e\)](#) must become manifest to a degree of 10 percent or more within one year of the last date of exposure to herbicides:

- chloracne or other acne-form disease consistent with chloracne
- porphyria cutanea tarda, and
- acute and subacute peripheral neuropathy.

Notes:

- There is no time limit for the other listed diseases.
- Previously, respiratory cancers, cancers of the lung, bronchus, larynx, and trachea had to become manifest within 30 years of last exposure. *PL 107-103* eliminated this requirement effective January 1, 2002.

Reference: For more information on time limits for manifestation of diseases subject to presumptive service connection, see [38 CFR 3.307\(a\)\(6\)\(ii\)](#).

f. When to Consider Direct Service Connection Under [38 CFR 3.303\(d\)](#) the requirements for presumptive service connection do *not* preclude consideration of direct service connection when a medical nexus (link, relationship, or association) has been provided.

g. Definition: Acute and Subacute Peripheral Neuropathy *Acute peripheral neuropathy* and *subacute peripheral neuropathy* are *transient* peripheral neuropathies that

- appeared within one year of last exposure to an herbicide agent
- resolved within two years of the date of onset, and
- do not include chronic peripheral neuropathy.

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10. General Information on Establishing Service Connection for Disabilities Resulting From Exposure to Herbicide Agents, Continued

h. Handling Claims Based on a History of Acute and Subacute Peripheral Neuropathy and Later-Occurring Peripheral Neuropathy Do not assign a “0-percent” evaluation based on a history of acute and subacute peripheral neuropathy that

- manifested within one year of the date of last exposure, and
- resolved within two years of the date of onset.

Rationale: There can be no valid claim without proof of a present disability.

Reference: For more information on what constitutes a valid claim for service connection, see [Brammer v. Derwinski](#), 3 Vet. App. 223 (1992).

Claims of service connection for later occurring peripheral neuropathy should be evaluated under the ordinary standards governing direct service connection.

Note: Because any acute or subacute peripheral neuropathy will, by definition, resolve within a short time after exposure do *not* presume any later occurring peripheral neuropathy, whether transient or chronic, to be related to the

- prior herbicide exposure, or
- previously-resolved acute or subacute peripheral neuropathy.

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10. General Information on Establishing Service Connection for Disabilities Resulting From Exposure to Herbicide Agents, Continued

i. Date Disabilities Became Subject to Presumptive Service Connection

The table below shows the dates on which the diseases listed in [38 CFR 3.309\(e\)](#) became subject to presumptive service connection.

Disability	Effective Date
<ul style="list-style-type: none"> • Chloracne or other acne-form disease consistent with chloracne, and • soft-tissue sarcoma, <i>other than</i> <ul style="list-style-type: none"> – osteosarcoma – chondrosarcoma – Kaposi’s sarcoma, or – mesothelioma 	February 6, 1991 <i>Note:</i> Originally, September 25, 1985, under 38 CFR 3.311a .
Non-Hodgkin’s lymphoma	February 6, 1991 <i>Note:</i> Originally, August 5, 1964, under 38 CFR 3.313 .
<ul style="list-style-type: none"> • Porphyria cutanea tarda, and • Hodgkin’s disease 	February 3, 1994
<ul style="list-style-type: none"> • Respiratory cancers, such as cancer of the <ul style="list-style-type: none"> – lung – bronchus – larynx, or – trachea, and • multiple myeloma 	June 9, 1994
<ul style="list-style-type: none"> • Prostate cancer, and • acute and subacute peripheral neuropathy 	November 7, 1996
Type 2 diabetes mellitus	May 8, 2001
Chronic lymphocytic leukemia	October 16, 2003

Note: Unless an earlier effective date is determined pursuant to the *Nehmer* stipulation, the provisions pertaining to retroactive payment under [38 CFR 3.114\(a\)](#) apply.

Reference: For more information on the *Nehmer* stipulation, see M21-1MR, Part IV, Subpart ii, 2.C.11.

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j. Conditions Determined to Have No Positive Association With Herbicide Exposure Under the Agent Orange Act of 1991, the Secretary receives from the National Academy of Science (NAS) periodic reviews and summaries of the scientific evidence concerning the association between exposure to herbicides and diseases suspected to be associated with those exposures.

Based on cumulative scientific data reported by the NAS since 1993, the Secretary has determined that there is no positive association between herbicide exposure and the following conditions:

- amyloidosis
- bone cancers
- brain tumors
- breast cancer
- circulatory disorders
- cognitive and neuropsychiatric effects
- female reproductive system cancers
- gastrointestinal and digestive disease, other than Type 2 diabetes mellitus
- gastrointestinal tract tumors
- hepatobiliary cancers
- immune system disorders
- leukemia
- lipid and lipoprotein disorders
- nasal and nasopharyngeal cancer
- Parkinson's disease
- chronic persistent peripheral neuropathy
- renal cancer
- reproductive effects, such as abnormal sperm parameters and infertility
- respiratory disorders, other than certain respiratory cancers
- skin cancer
- testicular cancer, and
- urinary bladder cancer.

Note: No positive association means that the evidence for an association does not equal or outweigh the evidence against association.

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k. Exposure to Herbicides During Service The National Archives and Records Administration (NARA) has confirmed that the Navy destroyer USS Ingersoll (DD 652) traveled into the inland waterways of RVN on October 24 and 25, 1965. Therefore, according to [38 CFR 3.307](#), concede exposure to herbicides for crewmembers that served aboard the USS Ingersoll on these dates.

Aboard the USS Ingersoll If a veteran alleges herbicide exposure based on duty aboard the USS Ingersoll, request Navy personnel records via the Personnel Information Exchange System (PIES) (request code O19).

If personnel records are unavailable or do not confirm a specific shipboard assignment during this timeframe, send a request for a review of NARA records to C&P Service via e-mail at VAVBAWAS/CO/211/AGENTORANGE. This request should include the veteran's

- name
- date of birth
- VA claim number
- Social Security number (SSN), and
- service number, if different than SSN.

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l. Exposure to Herbicides Along the DMZ in Korea The Department of Defense (DoD) has identified specific units that served in areas along the demilitarized zone (DMZ) in Korea where herbicides were used between April 1968 and July 1969.

Concede exposure to herbicides on a factual basis if a veteran

- alleges service along the DMZ in Korea , and
- was assigned to one of the units shown in the table below between April 1968 and July 1969.

Combat Brigade of the 2nd Infantry Division	Division Reaction Force	3rd Brigade of the 7th Infantry Division
1 st Battalion, 38 th Infantry	4 th Squadron, 7 th Cavalry, Counter Agent Company	1 st Battalion, 17 th Infantry

2 nd Battalion, 38 th Infantry		1 st Battalion, 31 st Infantry
1 st Battalion, 23 rd Infantry		1 st Battalion, 32 nd Infantry
2 nd Battalion, 23 rd Infantry		2 nd Battalion, 10 th Cavalry
3 rd Battalion, 23 rd Infantry		2 nd Battalion, 17 th Infantry
2 nd Battalion, 31 st Infantry		2 nd Battalion, 31 st Infantry
<i>Note:</i> Service records may show assignment to either the 2 nd or the 7 th Infantry Division.		<i>Note:</i> Service records may show assignment to either the 2 nd or the 7 th Infantry Division.
		2 nd Battalion, 32 nd Infantry
3 rd Battalion, 32 nd Infantry		3 rd Battalion, 32 nd Infantry
<i>Note:</i> Service records may show assignment to either the 2 nd or the 7 th Infantry.		<i>Note:</i> Service records may show assignment to either the 2 nd or the 7 th Infantry.
1 st Battalion, 9 th Infantry		
2 nd Battalion, 9 th Infantry		
1 st Battalion, 72 nd Armor		
2 nd Battalion, 72 nd Armor		
1 st Battalion, 12 th Artillery		
1 st Battalion, 15 th Artillery		
7 th Battalion, 17 th Artillery		

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l. Exposure to Herbicides Along the DMZ in Korea (continued)

Combat Brigade of the 2nd Infantry Division	Division Reaction Force	3rd Brigade of the 7th Infantry Division
5 th Battalion, 38 th Artillery		
6 th Battalion, 37 th Artillery		
United Nations Command Security Battalion-Joint Security Area (UNCSB-JSA)		
Crew of the <i>USS Pueblo</i>		

Note: Submit a request to the U.S. Army and Joint Services Records Research Center (JSRRC) for verification of the location of a veteran's unit if he/she

- alleges service along the DMZ between April 1968 and July 1969, and
- was assigned to a unit other than one listed in the table above.

m. Storage of Herbicide Herbicide agents were stored in drums on Johnston Island in the north Pacific between April 1972 and September 1977. Because military contractors were responsible for the inventory, few military personnel who served on Johnston Island had duties involving the

Agents on Johnston Island

direct handling of herbicides. If a veteran alleges exposure to herbicides during service on Johnston Island , obtain verification of exposure on a factual basis.

References: For more information on

- verifying exposure to herbicides, see M21-1MR, Part IV, Subpart ii, 2.C.10.n, and
- storage of herbicides on Johnston Island , see M21-1MR, Part IV, Subpart ii, 2.C.10.o.

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n. Verifying Exposure in Locations Other Than RVN or Along the DMZ in Korea

Use the table below to verify that exposure to herbicides occurred in locations *other than*

- in RVN during the Vietnam Era, or
- along the DMZ in Korea as specified in M21-1MR, Part IV, Subpart ii, 2.C.10.l.

Step	Action
1	Ask the veteran for the approximate dates, location, and nature of the alleged exposure.
2	Did the veteran furnish this information within 30 days? <ul style="list-style-type: none"> • If <i>yes</i>, go to Step 3. • If <i>no</i>, decide the claim based on the evidence of record.
3	<ul style="list-style-type: none"> • Furnish the veteran’s detailed description of exposure to C&P Service via e-mail at VAVBAWAS/CO/211/AGENTORANGE, and • request a review of DoD’s inventory of herbicide operations to determine whether herbicides were used as alleged.
4	Did C&P Service’s review confirm that herbicides were used as alleged? <ul style="list-style-type: none"> • If <i>yes</i>, determine whether service connection is otherwise in order. • If <i>no</i>, submit a request to JSRRC for verification of exposure to herbicides.