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Agent Orange Presumptive List Expanded

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Pursuant to the Agent Orange Act of 1991, the VA entered into an agreement with the National Academy of Sciences (NAS) to review the scientific associations between exposure to herbicides during the Vietnam War and diseases suspected to result from such exposure. NAS submits reports on its activities every two years.

The law also provides that when, based on sound medical and scientific evidence, the VA determines that a positive association exists (i.e., the credible evidence for the association is equal to or outweighs the credible evidence against the association), the VA will publish regulations establishing presumptive service connection for that disease, (i.e., the veteran will not have to provide medical evidence of a relationship between exposure and the subsequent onset of the disease in question). The Secretary's determination must be based on a consideration of the NAS reports and all other available sound medical and scientific information and analysis.

Between July 1993 and April 2001, the VA issued regulations that established presumptive service connection for several diseases for Vietnam veterans. These include:

chloracne, Type II diabetes mellitus, 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), and certain soft-tissue sarcomas. If a veteran who was exposed to an herbicidal agent in service subsequently develops one of the presumptive diseases, the VA will presume that the disease was caused by the exposure to that herbicide for purposes of granting service-connected benefits.

In each of its four previous biennial reports, the NAS determined that there was "inadequate/insufficient" evidence to determine an association between exposure to an herbicide agent and the development of leukemia. Following the 2001 NAS report, the VA asked NAS to review the possible association between exposure to Agent Orange and a particular form of leukemia, chronic lymphocytic leukemia (CLL). In its 2002 update, NAS concluded that there is sufficient evidence of such an association. After considering all of the evidence, VA Secretary Principi determined that there is a positive credible association between exposure to herbicides used in Vietnam and the subsequent Occurrence of CLL and that a presumption of service connection for CLL is warranted.

Consequently, on March 26 the VA published a proposed regulation to add CCL to the list of presumptively service-connected diseases incurred as the result of exposure to herbicides used in the Vietnam War. Interested organizations and individuals have until late May to provide their comments on the proposed regulation. The VA will then consider all of the comments received and issue a final regulation.

USE OF AGENT ORANGE OUTSIDE OF VIETNAM

The VA has announced that the Defense of Department (DoD) has released a list of locations outside of Vietnam where Agent Orange was used or tested over a number of years. The listings are mostly Army records, although there are a limited number of Navy and Air Force records. These listings relate only to chemical efficacy testing and/or operational testing. The records, however, do not refer to the use of Agent Orange or other chemicals in routine base maintenance activities, such as spraying along railroad tracks, weed control on rifle ranges, etc. The VA has been advised that information on such use does not exist.

The VA does have significant information regarding Agent Orange use in Korea along the demilitarized zone (DMZ). DoD has confirmed that Agent Orange was used from April 1968 through July 1969 along the DMZ. The military defoliated the fields of fire between the front-line defensive positions and the south-barrier fence. The size of the treated area was a strip of land 151 miles long and up to 350 yards wide from the fence to north of the "civilian control line." There are no records that reflect spraying within the DMZ itself.

Agent Orange and other herbicides were applied through hand spraying and by hand distribution of pelletized herbicides. Although restrictions limited the potential for spray drift, run-off, and crop damage, records indicate that effects of spraying were sometimes observed as far as 200 meters down wind.

Units in the area during the period of use of herbicide include: the four combat brigades of the 2nd Infantry Division (1-38 Infantry, 2-38 Infantry, 1-23 Infantry, 2-23 Infantry, 3-23 Infantry, 3-32 Infantry, 109th Infantry, 209th Infantry, 1-72 Armor, 2-72 Armor, 4-7th Cavalry); and 3rd Brigade of the 7th Infantry Division (1-17th Infantry, 2-17th Infantry, 1-73 Armor, 2-10th Cavalry). Field Artillery, Signal, and Engineer troops were supplied as support personnel as required. The estimated total number of exposed personnel is 12,056.

For purposes of claims for service connection, if a veteran is determined to have been exposed to Agent Orange in Korea or in other recognized areas (e.g., Panama), then the presumption of service connection for the listed diseases applies.

Special Compensation for 10 Diseases: As with veterans of any period, Vietnam veterans with disabilities arising during or aggravated by military service may receive monthly VA compensation. As knowledge has grown from studies of Agent Orange, some latent diseases that may not have become evident in service have been recognized presumptively. Based on clinical research, 10 such diseases are now on the presumptive list: chloracne, Hodgkin's disease, multiple myeloma, non-Hodgkin's lymphoma, porphyria cutanea tarda, respiratory cancers (lung, bronchus, larynx and trachea), soft-tissue sarcoma, acute and subacute peripheral neuropathy, prostate cancer and spina bifida.

Compensation, health care and vocation rehabilitation services are provided to Vietnam veterans' offspring with spina bifida, a congenital birth defect of the spine. Vietnam veterans are not required to prove exposure to Agent Orange; VA presumes that all military personnel who served in Vietnam were exposed to Agent Orange.