



# Agent Orange Review

Vol. 17, No. 2

Information for Veterans Who Served in Vietnam

March 2001

## Proposed Regulations Published on Diabetes

In early January 2001, Department of Veterans Affairs (VA) implemented Acting Secretary Hershel W. Gober's decision to presumptively recognize Type 2 diabetes for service-connection based on evidence of an association between herbicide exposure and diabetes. On January 11, 2001, VA published a proposed regulation in the Federal Register that would add Type 2 diabetes to its list of diseases presumptively associated with herbicide exposure. The proposal would create a presumption of service connection for Vietnam veterans with this disease.

This regulation is online at [www.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2001\\_register&docid=01-685-filed](http://www.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2001_register&docid=01-685-filed). The publication of the regulations invited public comment from Vietnam veterans and others regarding this matter. This proposed change will not take effect until VA publishes the regulation as final.

### IOM Report Prompts Action

This action resulted from the findings of the National Academy of Sciences' Institute of Medicine in its report, *Veterans and Agent Orange: Herbicide/Dioxin Exposure and Type 2 Diabetes*, released October 11, 2000. The IOM concluded there is "limited/suggestive evidence" of an association between exposure to the herbicides used in Vietnam or the contaminant dioxin and Type 2 diabetes. Based on that report, and all available evidence, Acting Secretary Gober determined that there is a positive association between Type 2 diabetes (also known as

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We want all readers of this special issue of the "Agent Orange Review" newsletter, especially Vietnam veterans and their families, to be assured that the Department of Veterans Affairs (VA) firmly supports Vietnam veterans seeking the benefits and services earned through their military service in Vietnam. Furthermore, we are wholeheartedly committed to providing such benefits and services to all eligible veterans.

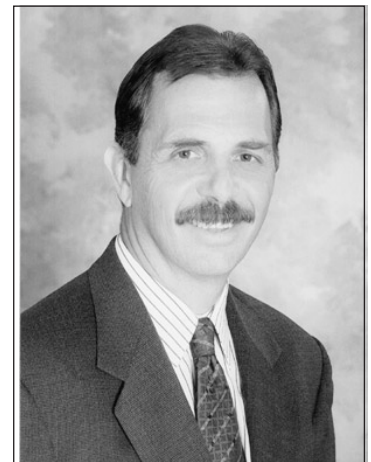
We certainly are grateful to these veterans for their selfless service, and recognize and honor the many sacrifices they made on behalf of the Nation.

VA's health and benefit programs are working together to better communicate with Vietnam veterans who may not be completely familiar with VA's comprehensive program established to address their concerns. The "Agent Orange Review" is an important tool in this effort. We hope the information in this and future issues of the newsletter will be helpful to Vietnam veterans and their families.

For more information about this program, call VA's toll-free Agent Orange Helpline: **1-800-749-8387**.



*Thomas L. Garthwaite, M.D.*  
*Under Secretary for Health*



*Joseph Thompson*  
*Under Secretary for Benefits*



## About the Review

The “*Agent Orange Review*” is prepared by VA’s Environmental Agents Service (EAS) with substantial assistance from the VA’s Compensation and Pension Service. The “Review” is published to provide information on Agent Orange and related matters to Vietnam veterans, their families, and others with concerns about herbicides used in Vietnam. It is also available on-line at <http://www.va.gov/agentorange/default.htm>. Back issues are also available at that site. The first issue was released in November 1982. The most recent edition (prior to the release of this issue) is dated December 2000. The March 2001 release is the thirty-fourth issue. It was written in early February 2001 and does not include developments that occurred since that time.

Comments or questions about the content of the “*Review*” are encouraged. Suggestions and ideas for future issues should be sent to Donald J. Rosenblum, Agent Orange Review, Deputy Director, Environmental Agents Service (131), VA Central Office, 810 Vermont Avenue, NW, Washington, DC 20420.

Requests for additional copies of this and earlier issues should also be directed to Mr. Rosenblum. Please specify the issue date and the quantity sought. A limited supply of the issues published during past years is available.

*VA facilities should order additional copies from the VA Service and Distribution Center. Each station has a Publications Control Officer (PCO). VA facilities should place any orders through their PCO using the LOG system.*

VA updates the “Review” mailing address listing annually based on IRS records. “Review” recipients who have not been filing Federal income tax returns annually and have moved to another residence are encouraged to send their old and new addresses and Social Security number to the Agent Orange Review, Austin Automation Center (200/397A), 1615 Woodward Street, Austin, TX 78772-0001.

Questions about the Agent Orange **Registry** examination program should be directed to the Registry Physician or Agent Orange Registry Coordinator at the nearest VA medical center. Questions regarding **eligibility for health care** should be directed to the hospital administration service at the nearest VA medical center. Questions regarding VA benefit programs, including **disability compensation**, should be referred to a veterans benefits counselor at the nearest VA facility. The telephone numbers can be found in the telephone directory under the “U.S. Government” listings.

The national toll-free telephone number for information regarding VA benefits is **1-800-827-1000**. The recently established toll-free helpline for Agent Orange concerns is **1-800-749-8387**.

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diabetes mellitus or adult-onset diabetes) and the herbicides used in Vietnam. Previous IOM reports (dated 1994, 1996, and 1998) had concluded that there is “inadequate/insufficient evidence to determine whether an association exists” between exposure to herbicides used in Vietnam and diabetes. This clearly shows how new scientific information can affect VA compensation policies.

Acting Secretary Gober publicly announced this decision on November 9, 2000. An extensive article about the IOM report can be found on pages 1-3 of the December 2000 issue of the *Agent Orange Review*

(available on-line at <http://www.va.gov/agentorange/default.htm>.)

Copies of the IOM report are available from the National Academy Press, 2101 Constitution Avenue, N.W., Washington, DC 20418; telephone: 202-334-3313 or 1-800-624-6242. The 66-page document sells for \$18 (prepaid) plus shipping (\$4.50 for the first copy and 95 cents for each additional copy). Prices are subject to change without notice. The full report is also available on-line at <http://national-academies.org>.

The following article provides background information about diabetes.

# A Snapshot of Diabetes: The Facts About America's Sixth Leading Cause of Death by Disease

## What is diabetes?

Diabetes is a chronic metabolic disease in which the body does not produce or properly use insulin, a hormone that is involved in storing and converting sugar, starches, and other food into energy.

## How many Americans have diabetes?

- About 16 million Americans have diabetes; that's about 6 percent of the population. About 5.4 million of these people are not aware that they have the disease.<sup>1</sup>
- Each year, 798,000 people are diagnosed with diabetes.<sup>1</sup>
- The number of people diagnosed with diabetes has risen from 1.5 million in 1958 to 10.3 million in 1997, a sixfold increase.<sup>1,2</sup>

## How common is diabetes by type?

- Type 1 diabetes accounts for 5 to 10 percent of all diagnosed cases of diabetes.<sup>1</sup>
- Type 2 diabetes accounts for 90 to 95 percent of all diagnosed cases of diabetes.<sup>1</sup>

## How common is diabetes by gender?

- 7.5 million men have diabetes (8.2 percent of all men age 20 years and older).<sup>1</sup>
- 8.1 million women have diabetes (8.2 percent of all women age 20 years and older).<sup>1</sup>

## How common is diabetes by age?

- 6.3 million Americans age 65 or older have diabetes — 18.4 percent of this age group.<sup>1</sup>
- 15.6 million Americans age 20 or older have diabetes — 8.2 percent of this age group.<sup>1</sup>

## How common is diabetes by race/ethnicity?

### African Americans

- 2.3 million African Americans age 20 or older have diabetes — 10.8 percent of this group.<sup>1</sup>
- African Americans are 1.7 times as likely to have diabetes as Caucasians of similar age.<sup>1</sup>

### Hispanic Americans

- On average, Hispanic Americans are almost twice as likely to have diabetes as non-Hispanic whites of similar age.<sup>1</sup>

### Asian Americans and Pacific Islanders

- Prevalence data for diabetes among Asian Americans and Pacific Islanders are limited. Some groups within this population are at increased risk for diabetes.<sup>1</sup>
- Data collected from 1988 to 1995 suggest that Native Hawaiians are twice as likely to have diagnosed diabetes as Caucasian residents of Hawaii.<sup>1</sup>

### Native Americans

- Rates of diabetes vary widely among Native American tribes, bands, pueblos and villages, ranging anywhere from 5 to 50 percent.<sup>1</sup>

### Caucasians

- 11.3 million non-Hispanic whites age 20 or older have diabetes — 7.8 percent of this group.<sup>1</sup>

## How does diabetes occur geographically?

- In Mississippi, 17 percent of adults ages 65 to 74 have diabetes – the highest prevalence in the United States for this age group. In addition, 8.5 percent of adults ages 45 to 64 in Mississippi have diabetes.<sup>3</sup>
- In Texas, 15.2 percent of adults ages 65 to 74 have diabetes – the second-highest prevalence in the United States for this age group. In addition, 9 percent of adults ages 45 to 64 in Texas have diabetes.<sup>3</sup>

- In Alaska, Delaware, Louisiana, Pennsylvania, and South Carolina, approximately 14 percent of adults ages 65 to 74 have diabetes.<sup>3</sup>
- In 31 states and the District of Columbia, the rates of diabetes for adults ages 65 to 74 falls between 10 percent and 14 percent.<sup>3</sup>
- In Tennessee, 9.1 percent of adults ages 45 to 64 have diabetes – the highest rate in the United States for this age group.<sup>3</sup>
- In addition to Tennessee, Texas, and Mississippi, the following states have the highest rates of diabetes among adults ages 45 to 64: Louisiana (8.7 percent), Michigan (8.5 percent), Arkansas (8.2 percent), South Carolina (8.2 percent), and West Virginia (8 percent).<sup>3</sup>

#### **How many deaths are linked to diabetes?**

- Diabetes contributed to 187,800 deaths in the U.S. in 1995.<sup>1</sup>
- Diabetes was the 7<sup>th</sup> leading cause of death listed on U.S. death certificates in 1995 (6<sup>th</sup> leading cause of death by disease).<sup>1</sup>
- Studies have found death rates to be twice as high among middle-aged people with diabetes as among middle-aged people without diabetes.<sup>1</sup>

#### **How much does diabetes cost the nation?**

- Total health care and related costs for the treatment of diabetes run about \$98.2 billion annually.<sup>4</sup>
- Of this total, direct medical costs (e.g., hospitalizations, medical care, treatment supplies) account for about \$44.1 billion.<sup>4</sup>
- The other \$54.1 billion covers indirect costs such as disability payments, time lost from work, and premature death.<sup>4</sup>

<sup>1</sup>National Diabetes Fact Sheet: National estimates and general information on diabetes in the United States. National Institutes of Health, et al, 1997.

<sup>2</sup>*Diabetes in America* (2<sup>nd</sup> Edition). National Institute of Diabetes and Digestive and Kidney Diseases,

National Institutes of Health; NIH Publication #95-1468, 1995.

<sup>3</sup>Behavioral Risk Factor Surveillance System, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, 1993-1995.

<sup>4</sup>American Diabetes Association. "Economic Consequences of Diabetes Mellitus in the U.S. in 1997," *Diabetes Care* 1998; 21(2): 296-309.

The above article was copied from VA's diabetes web page which is located at <http://www.va.gov/health/diabetes/default.htm>. There is a great deal of additional information at that site and associated links.

### **Outreach to Veterans Exposed to Agent Orange: Expansion of the St. Louis Helpline; Newsletter Distribution**

Public Law 103-446, enacted November 2, 1994, directed the Department of Veterans Affairs (VA) to implement a comprehensive outreach program to inform Gulf War veterans and their families of the medical care and other benefits that are available through VA and the Department of Defense as a result of service in the Gulf War. Two specific outreach programs were mandated by the legislation: installation of special toll-free telephone service and publication of a Gulf War newsletter.

In response to the first mandate, the Gulf War Helpline (1-800-749-8387) was activated in February 1995. The Helpline, located at and supervised by the St. Louis VA Regional Office, is staffed with contract telephone attendants trained to respond to questions about Gulf War benefits and medical care issues.

VA is again turning to this very effective tool for reaching out to veterans to inform them of changes to the laws which govern VA benefits and which affect many veterans. The recent announcement of diabetes as a presumptive condition for veterans who served in Vietnam is a good example of information that is of interest to thousands of veterans and needs to be disseminated.

To respond to the number of calls that are expected as a result of the recent decision to add diabetes to the list of presumptive service-connected conditions for Vietnam veterans, an expansion to the Gulf War Helpline has been implemented. This expansion uses the existing Gulf War Helpline by adding an option for callers to talk with operators regarding Agent Orange-specific concerns. The expanded assistance line has been renamed the *Gulf War/Agent Orange Helpline*.

Callers can speak to operators concerning questions they have about their service in Vietnam; leave voice mail messages to have information packets sent; or may receive the information they are seeking from the recorded information on numerous issues involving Vietnam service, adult onset (Type 2) diabetes, and exposure to Agent Orange, to name just a few.

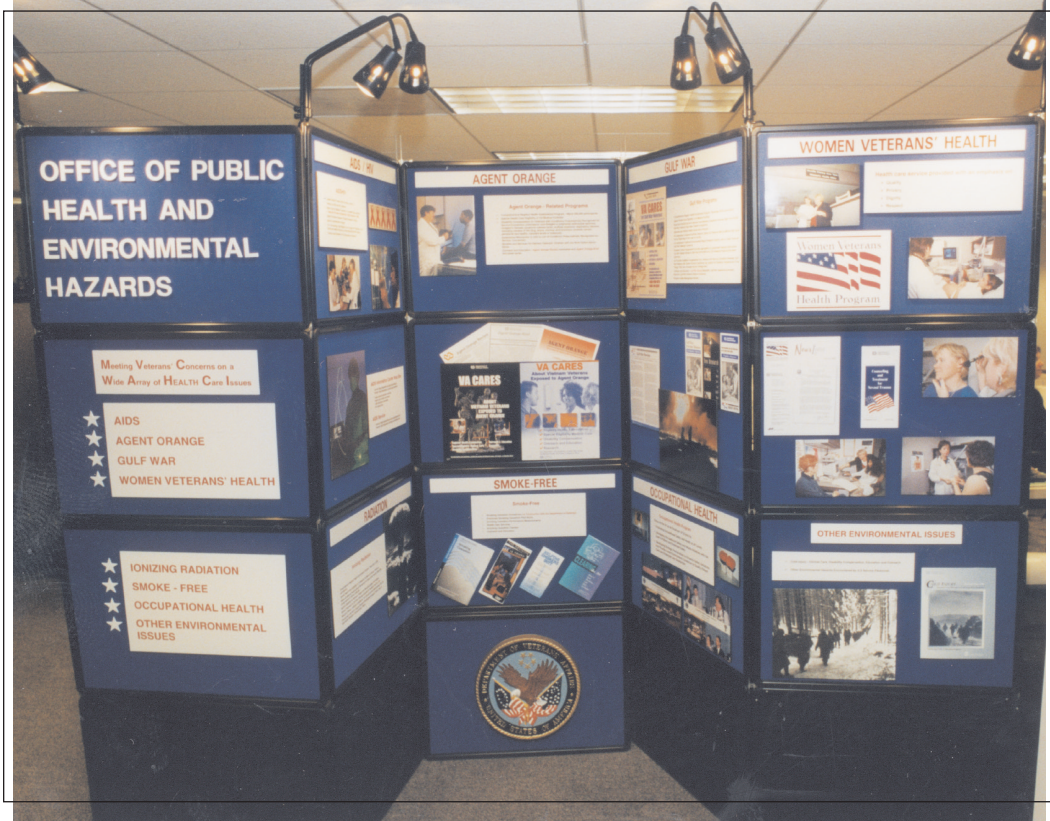
The St. Louis Helpline has been very effective in meeting the information needs of Gulf War veterans. VA officials hope that it will be equally as effective in meeting the general information needs of veterans exposed to Agent Orange.

The Gulf War/Agent Orange Helpline will go into effect on March 1, 2001. The number is **1-800-749-8387**.

### **Agent Orange Newsletter Circulation Boosted**

An outreach program to Agent Orange-exposed Veterans is planned for March 2001. The centerpiece of the outreach program is the addition of diabetes to the list of presumptive conditions. The special issue of the Agent Orange Review, that you are reading, provides a great deal of information about VA's benefits and services.

It is estimated that about 650,000 in-country Vietnam veterans will receive this issue of the *Agent Orange Review*. This increased number of recipients of the Agent Orange Review is a result of the matching of databases which different elements of VA have compiled. The Review is currently distributed to all those veterans on the Agent Orange Registry database and the special issue will reach this population as well as the newly added 375,000 veterans who served in Vietnam.



*Exhibit — Another Outreach Tool*

## Registry Participants Top 300,000

As of December 2000, more than 300,000 Vietnam veterans have completed the Agent Orange Registry health examination offered to Vietnam veterans at Department of Veterans Affairs (VA) medical centers throughout the Nation. Each month, hundreds of Vietnam veterans travel to VA for their initial examination. Many of these veterans have no current medical problems but are concerned about the health consequences of their military service; others present a wide range of ailments.

In mid-1978, the Veterans Administration (known today as the Department of Veterans Affairs or VA), set up a registry of Vietnam veterans who were concerned about possible health effects from exposure to Agent Orange. These veterans were offered an extensive medical examination at all VA health care facilities. The Agent Orange Registry is a computerized record of those examinations.

### Voluntary Program

Each veteran participating in this voluntary program is given baseline laboratory studies including chest x-ray (if one has not been done within the past 6 months); complete blood count; blood chemistries and enzyme studies; and urinalysis. Particular attention is paid to the detection of diseases associated with Agent Orange exposure, currently including chloracne, porphyria cutanea tarda, soft tissue sarcoma, non-Hodgkin's lymphoma, Hodgkin's disease, respiratory (trachea, larynx, bronchus, and lung) cancers, multiple myeloma, prostate cancer, diabetes, and peripheral neuropathy.

Evidence is also sought concerning the other potentially relevant symptoms or conditions, including: reproductive effects, including altered sex drive; congenital deformities (birth defects, including spina bifida) among children; sterility; difficulties in carrying pregnancies to term as well as repeated infections; and nervous system disorders.

This examination provides the participating veteran with an opportunity to receive a complete health evaluation, and also to hear answers to questions about the current state of knowledge

regarding the possible relationship between herbicide exposure and subsequent health problems. Following completion of the examination, the veteran is given results of the physical exam and laboratory studies. This information is provided to the veteran by both a face-to-face discussion with a physician familiar with the health aspects of the Agent Orange issue and in a follow-up letter summarizing results of the examination. Occasionally, previously undetected medical problems are found. With prompt attention, many times these illnesses can be successfully treated.

The most common symptoms found in Registry participants involved nervous and musculoskeletal systems, skin and other integumentary tissues (skin rashes), and those of the head and neck (headaches). The most common diseases involve the following systems: endocrine/metabolic, and immunity, respiratory, circulatory, skin and subcutaneous tissue, musculoskeletal; as well as neuroses, personality and other non-psychotic mental disorders. VA medical record coders are responsible for locating correct codes to identify both the symptoms and diagnoses and when necessary, obtaining guidance from clinicians to complete those entries.

The Registry is not a scientific study. Because of the self-selected nature of the Registry participants (that is, the individuals decide themselves to be part of the Registry rather than being chosen in a scientific manner), this group of veterans cannot, with any scientific validity, be viewed as being representative of Vietnam veterans as a whole. Therefore, the health-related information collected cannot be used for scientific research, nor can this information be generalized to all Vietnam veterans.

Although the Registry is not a research tool, VA scientists carefully review Registry data to look for any health trends that may be present. The Registry provides a means of detecting clues or suggestions of specific health problems in the event that unexpected or unusual health trends show up in this group of veterans. The Agent Orange Registry is no substitute for well-designed epidemiologic studies, but it can provide important clues that form the basis for the design and conduct of specific scientific studies.

Furthermore, the Registry offers an opportunity for outreach to Vietnam veterans about VA health care and compensation issues. Participants are automatically added to the mailing list for the “*Agent Orange Review*,” a newsletter that regularly provides valuable information about Agent Orange developments. The Registry permits VA to contact veterans for further testing if continuing research efforts should make this action advisable. Following new decisions by the Secretary of Veterans Affairs that recognize additional illnesses as service-connected, VA contacted Registry participants who received those diagnoses to urge them to file claims for disability compensation.

At each VA medical center there is a “Registry Physician,” who is responsible for the conduct of Agent Orange Registry examinations. These individuals participate in regularly scheduled nationwide conference calls and receive mailings from VA headquarters updating them on the latest developments on Agent Orange. Each medical center also has an Agent Orange Registry Coordinator who has access to a great deal of information about the Agent Orange Registry and related matters. In addition, VA medical center libraries have considerable information regarding Agent Orange. The VA web site for Agent Orange is located at <http://www.va.gov/agentorange/default.htm>.

### **Eligibility**

Any veteran, male or female, who had active military service in the Republic of Vietnam between 1962 to 1975, and who has a concern relating to exposure to herbicides may participate in the Registry. Eligible veterans who want to participate in this program should contact the nearest VA medical facility for an appointment. Generally, a veteran who did not serve in Vietnam is not eligible for inclusion in the Agent Orange Registry examination program even if they might have been exposed to herbicides elsewhere during military service. (The only other veterans eligible for the Registry examination are U.S. military veterans who served in Korea in 1968-69, when Agent Orange was used there.) However, a comparable examination could be provided to veterans who did not serve in Vietnam if they are enrolled for VA health care. Similarly, the spouses and children of veterans are not eligible for this examination.

No special Agent Orange exposure tests are offered since there is no test to prove that a veteran’s medical problem was caused by Agent Orange or other herbicides used in Vietnam. There are tests that show the level of dioxin in human fat and blood, but such tests are currently recommended only as part of a well-designed research study. VA does not use dioxin levels as a clinical diagnostic test because they do not have clinical value in diagnosing or treating individual veterans. Furthermore, for compensation purposes, VA presumes that all U.S. service members who served in Vietnam were exposed to Agent Orange. This policy makes it unnecessary to “prove” Agent Orange exposure by any tests.

Veterans interested in receiving the Agent Orange Registry examination are advised to contact the nearest VA medical center. Participating in the Registry does not automatically result in consideration for possible disability compensation. Veterans who wish to be considered for disability compensation must file a claim for that benefit. They may contact the appropriate VA Regional Office by calling toll-free: **1-800-827-1000**.

Veterans who change their residences after receiving the Agent Orange examination should contact the Agent Orange Coordinator at the nearest VA medical center and the Agent Orange Clerk (200/397A), VA Automation Center, 1615 Woodward Street, Austin, Texas 78772-0001. Both the old and new addresses should be included, and it should be indicated that changes are for the Agent Orange Registry.

There are no plans to stop the VA Agent Orange Registry. The examinations will continue for the foreseeable future.

### **Q’s and A’s**

The Q’s and A’s (Questions and Answers) feature of the “Review” responds to questions and concerns that have been received from various sources. Questions for future issues should be sent to Mr. Donald J. Rosenblum, Deputy Director, Environmental Agent Service (131), VA Central Office, 810 Vermont Avenue, N.W., Washington, DC 20420. We cannot guarantee that that all questions will be used in this column, but we will respond to as many as we can!

## How Conditions Are Recognized for Service-Connection

*Some veterans have expressed concern or confusion about how conditions are presumptively recognized for service-connection based on exposure to Agent Orange or other herbicides used in Vietnam. The following article prepared by Bill Russo in the Compensation Service in VA headquarters is intended to clarify this matter.*

In the Agent Orange Act of 1991, Public Law 102-4, Congress established a procedure which the U.S. Department of Veterans Affairs (VA) must follow in deciding whether to create new presumptions of service connection for disabilities suffered by Vietnam veterans that may be associated with exposure to Agent Orange or other herbicides in Vietnam.

That procedure requires VA to contract with the National Academy of Sciences (NAS) to conduct reviews every two years of the scientific literature on the health effects of herbicides. The NAS's Institute of Medicine (IOM) has issued three comprehensive reports so far and, based on their findings, VA has added a number of conditions to the list of disabilities which are presumed to be service connected based on herbicide exposure.

For any veteran who served in Vietnam between January 9, 1962 and May 7, 1975, and has one of the diseases on that list, VA must presume that they were exposed to herbicides and their disease is service-connected. This current list\* is:

- Chloracne or other acneform disease consistent with chloracne. (Must occur within one year of exposure to Agent Orange).
- Hodgkin's disease.
- Multiple myeloma.
- Non-Hodgkin's lymphoma.
- Acute and subacute peripheral neuropathy. (For purposes of this section, the term acute and subacute peripheral neuropathy means temporary peripheral neuropathy that appears within one year of exposure to an herbicide agent and resolves within two years of the date of onset.)

- Porphyria cutanea tarda. (Must occur within one year of exposure to Agent Orange).
- Prostate cancer.
- Respiratory cancers (cancer of the lung, bronchus, larynx, or trachea). (Must occur within 30 years of exposure to Agent Orange).
- Soft-tissue sarcoma (other than osteosarcoma, chondrosarcoma, Kaposi's sarcoma, or mesothelioma).

The law requires that some of these diseases be at least 10% disabling under VA's rating regulations within a deadline that began to run the day the veteran left Vietnam. If there is a deadline, it is listed in parentheses after the name of the disease.

### Benefits for Children and Survivors

VA also provides health care, monthly disability compensation and vocational rehabilitation to the children of Vietnam veterans suffering from the serious birth defect spina bifida, which has been linked to the veterans' exposure to Agent Orange. Survivors of veterans (including spouses, children and dependent parents) who died as the result of a service-connected disease may be eligible for monthly Dependency and Indemnity Compensation benefits. These survivors may also be eligible for education, home loan and medical care benefits.

Based on the NAS report, and all available evidence, the Secretary must determine if there is a "positive association" between and the herbicides used in Vietnam. If the Secretary determines that there is such an association for a particular disease, the Agent Orange Act requires VA to publish in the *Federal Register* a proposed regulation adding the disease to the Agent Orange presumptive list. The public then has 60 days in which to comment on the proposed regulation. After evaluating the comments and making any appropriate modifications, VA will publish a final regulation in the *Federal Register*.

Under the Agent Orange Act, VA cannot begin paying compensation to veterans until the final regulation is published. A new NAS report on Agent Orange is expected later this year.

*\* Diabetes is not included because implementing regulations have not yet been finalized.*



## Benefit Information

*The following guide to benefits was prepared for the "Agent Orange Review" by officials in the Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs (VA) Central Office, Washington, DC. It was originally printed in the "Review" in two parts. It was included in the May and August 2000 issues of the newsletter. It is included, with updated information, here because of the substantial number of new readers and the high level of interest in the subject matter.*

### As a Vietnam Veteran, What Kind of Benefits Can I Get?

U.S. Department of Veterans Affairs (VA) pays disability compensation to Vietnam veterans with injuries or diseases that began in, or were aggravated by, their military service. These are called "service-connected" disabilities. VA has several pamphlets describing VA benefits. They are available on the Internet at: [www.va.gov/publ/direc/eds/edspamph.htm](http://www.va.gov/publ/direc/eds/edspamph.htm). If you do not have Internet access at home, you can get free access at most public libraries. Publications are also available at your VA Regional Office or by calling these offices at **1-800-827-1000**.

### How Much Compensation Will I Get?

The monthly payment rates shown in the table below (for the year 2001) are based on the veteran's combined rating for his or her service-connected disabilities. Additional amounts are paid to certain veterans with severe disabilities ("special monthly compensation") and certain veterans with dependents. A veteran with a 10% rating receives \$101 monthly; a veteran with a 50% rating gets \$609; and a veteran with a 90% rating is paid \$1266 each month.

10%	20%	30%	40%	50%	60%	70%	80%	90%	100%
\$101	\$194	\$298	\$427	\$609	\$769	\$969	\$1125	\$1266	\$2107

## What Evidence Do I Need to Support a Claim?

In an Agent Orange-based claim by a Vietnam veteran for service-connected benefits, VA requires:

- (1) a medical diagnosis of a disease which VA recognizes as being associated with Agent Orange (listed below),
- (2) competent evidence of service in Vietnam or offshore in the adjacent waters, and
- (3) competent medical evidence that the disease began within the deadline (if any).

### Who Can Get Benefits?

Under the law, veterans who served in Vietnam between 1962 and 1975 (including those who visited Vietnam even briefly or served in the waters just offshore), and who have a disease that VA recognizes as being associated with Agent Orange, are presumed to have been exposed to Agent Orange.

These veterans are eligible for service-connected compensation based on their service, if they have one of the diseases on VA's list of "Diseases associated with exposure to certain herbicide agents." This list is found in VA's regulation, Section 3.309(e), in title 38 of the Code of Federal Regulations. VA updates this list regularly based to a large extent on reports from the National Academy of Sciences, an independent research and education institution.

Many Vietnam veterans with illnesses not associated with Agent Orange also qualify and receive disability compensation from VA.

### Diseases Associated With Exposure to Agent Orange

These are the diseases that VA currently presumes resulted from exposure to herbicides like Agent Orange. The law requires that some of these diseases be at least 10% disabling under VA's rating regulations within a deadline that began to run the day you left Vietnam. If there

is a deadline, it is listed in parentheses after the name of the disease.

- Chloracne or other acneform disease consistent with chloracne. (Must occur within one year of exposure to Agent Orange).
- Hodgkin's disease.
- Multiple myeloma.
- Non-Hodgkin's lymphoma.
- Acute and subacute peripheral neuropathy. (For purposes of this section, the term acute and subacute peripheral neuropathy means temporary peripheral neuropathy that appears within one year of exposure to an herbicide agent and resolves within two years of the date of onset.)
- Porphyria cutanea tarda. (Must occur within one year of exposure to Agent Orange).
- Prostate cancer.
- Respiratory cancers (cancer of the lung, bronchus, larynx, or trachea). (Must occur within 30 years of exposure to Agent Orange).
- Soft-tissue sarcoma (other than osteosarcoma, chondrosarcoma, Kaposi's sarcoma, or mesothelioma).

## **What Benefits Can My Family Get?**

### Spina Bifida Birth Defect

In 1996, President Clinton and VA Secretary Jesse Brown asked Congress to pass legislation providing health care, monthly disability compensation, and vocational rehabilitation to the children of Vietnam veterans suffering from the serious birth defect spina bifida, which has been linked to the veterans' exposure to Agent Orange. Congress passed the legislation, marking the first time our nation had ever compensated the children of veterans for a birth defect associated with their parent's exposure to toxic chemicals during their military service. VA is now providing benefits to over 800 children, including minors and adults.

## Survivor Benefits

Survivors of veterans (including spouses, children and dependent parents) who died as the result of a service-connected disease may be eligible for monthly Dependency and Indemnity Compensation benefits. These survivors may also be eligible for education, home loan and medical care benefits.

## **How Can I Apply for VA Benefits?**

To apply for benefits, send the VA Regional Office a letter stating that you have a specific health problem and that you claim it is due to your exposure to Agent Orange while serving in Vietnam. This is called an informal claim and will set the effective date for your benefits payments, if your claim is granted. The VA Regional Office will then send you an application form, which you must fill out and return. To get the address of your VA Regional Office, call **1-800-827-1000**.

## **Can I Get a Representative to Be My Advocate?**

You may get a representative to help you present your claim to VA. Most veterans service organizations and state and county veterans service agencies offer free representation. A listing of veterans service organizations is available on the Internet at: [www.va.gov/vso/index.htm](http://www.va.gov/vso/index.htm). A listing of state veterans agencies is available on the Internet at: [www.va.gov/partners/stateoffice/index.htm](http://www.va.gov/partners/stateoffice/index.htm).

## **What If My Claim is Denied?**

If the VA Regional Office says your disability is not service-connected or if the percentage of disability is lower than what you think is fair, you have the right to appeal to the Board of Veterans' Appeals. The first step in appealing is to send the VA Regional Office a "Notice of Disagreement." This Notice of Disagreement is a written statement saying that you "disagree" with the denial. Be sure your Notice includes the date of the VA's denial letter and be sure to list the benefits you are still seeking.

The Notice of Disagreement must be mailed to the VA Regional Office within one year of the VA Regional Office's denial of your claim or you cannot appeal.

In response to the Notice of Disagreement, you will get a "Statement of the Case" from the VA Regional Office. This will repeat the reasons stated in the VA's denial letter why your claim was denied and will include the relevant VA regulations. Once you get the Statement of the Case, if you still wish to pursue your appeal, you should file a VA Form 9, "Appeal to Board Veterans' Appeals," which is sent with the Statement of the Case. You have 60 days from the date on the Statement of the Case, or one year from the date the VA first denied your claim, to file the VA Form 9. Whichever date is later is your deadline.

At any point, you can request a hearing at the VA Regional Office.

### **Can I Appeal Beyond the VA Regional Office?**

The Board of Veterans' Appeals (also known as "BVA") is a part of the VA, located in Washington, D.C. Members of the BVA review benefit claims decisions made by VA Regional Offices and issue a new decision. You may have a hearing before the BVA in Washington, DC or at your VA Regional Office.

Anyone appealing to the BVA should read the "Understanding the Appeal Process" pamphlet. It explains the steps involved in filing an appeal and to serve as a reference for the terms and abbreviations used in the appeal process. The Board mails a copy of this pamphlet to anyone who appeals their case. It is also available on the Internet at [www.va.gov/appeals/index.htm](http://www.va.gov/appeals/index.htm).

### **Can I Appeal to a Court ?**

If the BVA does not grant all the benefits you are seeking, you have four choices:

1. decide not to pursue your claim
2. appeal to the U.S. Court of Appeals for Veterans Claims

3. ask the BVA to reconsider its decision or
4. reopen your case at the VA Regional Office with new and material evidence.

### Appeal to the Court

You may appeal to the Court only if BVA has denied some or all of your benefits. You may not appeal a BVA decision to remand your claim back to the VA Regional Office. You must file your appeal by mail or by fax. Send your name, address, phone number, and the date of the BVA decision to:

Clerk of the Court  
U.S. Court of Appeals for Veterans Claims  
625 Indiana Avenue, N.W.  
Washington, DC 20004  
Fax number: (202) 501-5848

To get a list of veterans' representatives who practice at the Court, and for more information on the Court, see the Court's web site at [www.vetapp.uscourts.gov/howapeal.htm](http://www.vetapp.uscourts.gov/howapeal.htm). This list is also available by calling the Court at 1-800-869-8654.

### Ask BVA to reconsider

The BVA will reconsider its denial decision, if it finds an "obvious error of fact or law" in that decision. Such a request should be sent to the BVA.

### Reopen your case

If you can get additional evidence about your case which is both new and material, you can reopen your claim at the VA Regional Office and get a new decision.

### **What If I Served in Vietnam and Have a Disease Not on VA's List?**

If you served in Vietnam and believe that you have a disease caused by herbicide exposure, but that disease is not on VA's list of diseases associated with herbicides like Agent Orange, you may still apply for service-connection. Such a veteran needs to establish entitlement to service connection on a "direct" (rather than "presumptive") basis. In these cases, VA requires:

- 1) competent medical evidence of a current disability;
- 2) competent evidence of exposure to an herbicide in Vietnam; and
- 3) competent medical evidence of a nexus (causal relationship) between the herbicide exposure and the current disability.

### What If I Was Exposed to an Herbicide Outside Vietnam?

Herbicides were used by the U.S. military to defoliate military facilities in the U.S. and in other countries as far back as the 1950s. Even if you did not serve in Vietnam, you can still apply for service-connected benefits if you were exposed to an herbicide while in the military which you believe caused your disease or injury. If you have a **disease which is on the list** of diseases which VA recognizes as being associated with Agent Orange, the VA requires:

- (1) a medical diagnosis of a disease which VA recognizes as being associated with Agent Orange (listed below),
- (2) competent evidence of exposure to a chemical contained in one of the herbicides used in Vietnam (2,4-D; 2,4,5-T and its contaminant TCDD; cacodylic acid; or picloram), and
- (3) competent medical evidence that the disease began within the deadline for that disease (if any).

If you have a disease which is **not on the list of diseases** which VA recognizes as being associated with Agent Orange, VA requires:

- (1) competent medical evidence of a current disability;
- (2) competent evidence of exposure to an herbicide during military service; and
- (3) competent medical evidence of a nexus (causal relationship) between the herbicide exposure and the current disability.

## Address Changed? Receiving Multiple Copies?

If you have recently moved, please use this form to update our mailing list. Send completed form to the Agent Orange Review, Austin Automation Center (200/397A), 1615 Woodward Street, Austin, TX 78772-0001. Thank you.

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Middle \_\_\_\_\_ (10)

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SSN: \_\_\_\_\_

New Street/RFD/Military Unit:  
\_\_\_\_\_ (40)

APO/FPO: \_\_\_\_ (Indicate which if applicable)

City: \_\_\_\_\_ (20)

Alpha State/or APO/FPO Code: \_\_\_\_

ZIP Code: \_\_\_\_\_

If you are receiving more than one copy of the newsletter, please let us know. Write to the Agent Orange Review, Austin Automation Center (200/397A), 1615 Woodward Street, Austin, TX 78772-0001. Thank you.

## VA Medical Care

Even if you decide not to file a claim for VA compensation benefits based on Agent Orange, you can still get a free physical examination at the nearest VA Medical Center. This is called the Agent Orange Registry Exam. This exam consists of four parts: an exposure history, a medical history, laboratory tests and a physical exam of those body systems most commonly affected by toxic chemicals. This exam might detect diseases which can be treated more effectively the earlier they are diagnosed. You may also be entitled to free ongoing medical treatment at a VA medical facility. Information on VA health care is available on the Internet at: [www.va.gov/vbs/health/index.htm](http://www.va.gov/vbs/health/index.htm). A listing of all VA medical facilities is available on the Internet at: [www.va.gov/pubaff/fedben/99fedben.pdf](http://www.va.gov/pubaff/fedben/99fedben.pdf).

## Social Security Benefits

The Social Security Administration (SSA) offers both disability insurance benefits and supplemental security income benefits. Veterans can receive both Social Security disability insurance benefits and VA disability compensation. There is an offset of the VA pension or compensation with supplemental security income benefits. Unlike VA compensation benefits that are measured in degrees of disability, SSA benefits require a total disability that will last at least one year. If you cannot work because of your disability, contact the nearest district office of SSA at 1-800-772-1213. SSA benefits information is available on the Internet at [www.ssa.gov](http://www.ssa.gov).

## Settlement of the Agent Orange Class Action Lawsuit – A Brief History

During the past decade, the Department of Veterans Affairs has received many inquiries regarding the Agent Orange Settlement Fund. The Fund, created as a result of a private class action lawsuit settlement, involved neither the Department of Veterans Affairs/Veterans Administration nor

any other executive branch agency of the Federal government. The Settlement Fund closed in 1997. Below is a brief history.

The Agent Orange Settlement Fund was created by the resolution of the Agent Orange Product Liability Litigation – a class action lawsuit brought by Vietnam veterans and their families regarding injuries allegedly incurred as a result of the exposure of Vietnam veterans to chemical herbicides used during the Vietnam war. The suit was brought against the major manufacturers of these herbicides. The class action case was settled out-of-court in 1984 for \$180 million dollars, reportedly the largest settlement of its kind at that time.

The Settlement Fund was distributed to class members in accordance with a distribution plan established by United States District Court Judge Jack B. Weinstein, who presided over the litigation and the settlement. Because the plaintiff class was so large (an estimated 10 million people), the Fund was distributed to class members in the United States through two separate programs designed to provide maximum benefits to Vietnam veterans and their families most in need of assistance:

- a Payment Program, which provided cash compensation to totally-disabled veterans and survivors of deceased veterans; and
- a Class Assistance Program, which provided funds for social services organizations and networks for the purpose of establishing and maintaining programs for the benefit of the class as a whole.

This plan for distributing the Settlement Fund was unprecedented: it employed mechanisms not previously adopted in class action lawsuits in order to maximize benefits to class members and to respond to the complex needs expressed by the class during a series of “Fairness Hearings” held in six different locations in the country.

Applications for the Payment Program had to be submitted prior to December 31, 1994. To be eligible for compensation under the Payment Program, Vietnam veterans or their survivors had to establish the following:

- that the veteran served in Vietnam as a member of the Armed Forces between 1961 and 1972 (the period during which Agent Orange was used in Vietnam);
- that the applicant was either a totally-disabled Vietnam veteran or the survivor of a deceased Vietnam veteran;
- that based upon the circumstances of the veteran's service (including location of service and particular experiences during service), the veteran met a test of probable exposure to herbicides;
- that death or disability was not caused by a traumatic or accidental occurrence; and
- that death or disability occurred before December 31, 1994.

The Payment Program operated over a period of 6 ½ years, beginning, after appeals, in 1988 and concluding in 1994. During its operation, the Settlement Fund distributed a total of \$197 million in cash payments to members of the class in the United States. Of the 105,000 claims received by the Payment Program, approximately 52,000 Vietnam veterans or their survivors received cash payments which averaged about \$3,800 each.

The other part of the Settlement Fund, the Class Assistance Program, was intended by the distribution plan to function as a foundation. Between 1989 and 1996 it distributed, through a series of Requests for Proposal, \$74 million to 83 social services organizations throughout the United States. These agencies, which ranged from disability and veterans service organizations to community-based not-for-profits, provided counseling, advocacy, medical and case-management services. During this period, these organizations assisted over 239,000 Vietnam veterans and their families.

On September 27, 1997, the District Court ordered the Fund closed, its assets having been fully distributed.

*The above article was prepared by Dennis K. Rhoades, Executive Director, Agent Orange Class Assistance Program, 1989-96. Mr. Rhoades currently serves as a program consultant in VA's headquarters.*

### **Conditions Recognized as Service-Connected for Vietnam Veterans Based on Exposure to Agent Orange or Other Herbicides**

1. Chloracne
2. Non-Hodgkin's lymphoma
3. Soft tissue sarcoma
4. Hodgkin's disease
5. Porphyria cutanea tarda
6. Multiple myeloma
7. Respiratory cancers (including cancers of the lung, larynx, trachea, and bronchus)
8. Prostate cancer
9. Peripheral neuropathy (transient acute or subacute)
10. Diabetes (final regulations pending)  
– see article on page 1

### **Conditions Recognized in Children of Vietnam Veterans**

1. Spina bifida (except spina bifida occulta)
2. Other birth defects in the children of women Vietnam veterans (regulations pending)

### **Clarification: Vietnam Veterans Who Served in Korea in 1968-69 Can Get Registry Exam But Are Not Eligible for Presumptive Service-Connection**

The December issue of the "Agent Orange Review" explained that on September 5, 2000, the Veterans Health Administration (VHA), the medical agency of the Department of Veterans Affairs (VA), announced the establishment of policies and procedures to offer VA Agent Orange Registry examinations to veterans who served in Korea during 1968 or 1969.

The "Review" article on this subject included the following language concerning disability compensation:

Vietnam-era veterans who served in Korea are not eligible for the presumptive disability compensation program established for those individuals exposed to Agent Orange in Vietnam. The policies described in this article do not cover disability compensation or access to priority health care. It is important to understand that receipt of the examination does not constitute a claim for compensation from VA.

Some veterans have questions and concerns about eligibility for disability compensation. The decision to provide Agent Orange Registry examinations to certain Vietnam-era Korean does not carry over to disability compensation policies. For compensation

purposes and by law, presumption of exposure to Agent Orange and other herbicides used in Vietnam applies only to veterans who served in Vietnam.

On the other hand, disabled veterans who did not serve in Vietnam may be eligible for compensation from VA under other provisions of law. Veterans with questions or concerns about this matter are encouraged to contact a veterans service representative. These VA employees have a great deal of information regarding compensation and will share their knowledge and advice with veterans who need their help. To reach a VSR, call toll-free: **1-800-827-1000**.

## Where to Get Help

**Vietnam veterans with questions or concerns about Agent Orange** – contact VA’s *Gulf War/Agent Orange Helpline*. The national toll-free telephone number is **800-749-8387**.

**Vietnam veterans (plus veterans who served in Korea in 1968 or 1969)** concerned about possible long-term health effects of Agent Orange exposure – contact the nearest VA medical center and request an Agent Orange Registry health examination. More than 300,000 Vietnam veterans have already participated in this program.

**Vietnam veterans who need medical treatment** for conditions that may be related to their exposure to Agent Orange or other herbicides used in Vietnam – contact the nearest VA medical center for eligibility information and possible medical treatment.

**Vietnam veterans with illnesses that were incurred in or aggravated by** exposure to Agent Orange or other aspects of military service – contact a VA veterans services representative at the nearest VA regional office or health care facility and apply for disability compensation. The

counselors have information about the wide range of benefit programs administered by VA. The national toll-free number is **1-800-827-1000**.

**Vietnam veterans who encounter difficulties** at a VA medical center – contact the “patient advocate” at that facility for assistance in resolving the problem. Ask the medical center telephone operator for the patient advocate or representative.

Vietnam veterans with children who have **spina bifida** – contact the nearest VA regional office by calling toll-free: **1-800-827-1000**. Additional information on spina bifida is available from the Spina Bifida Association of America at 4590 MacArthur Blvd., Suite 250, Washington, DC 20007-4226; toll free telephone: 800-621-3141; e-mail address: [spinabifda@aol.com](mailto:spinabifda@aol.com); and web site: [www.sbaa.org](http://www.sbaa.org)

Representatives of **veterans service organizations**, including The American Legion (**1-800-433-3318**), Veterans of Foreign Wars of the United States (**1-800-VFW-1899**), Disabled American Veterans (**1-877-426-2838**), Vietnam Veterans of America (**1-800-882-1316, ext. 149**), etc., have also been very helpful to Vietnam veterans seeking disability compensation.



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## **Agent Orange Review**

*Information for Veterans  
Who Served in Vietnam*

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