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Board of Veterans' Appeals

Lecture Series

Herbicide Exposure

Excerpts:

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A. Definition

The term "herbicide agent" means a chemical in an herbicide used in support of the United States and allied military operations in the Republic of Vietnam during the period beginning on January 9, 1962 and ending on May 7, 1975, specifically: 2,4-D; 2,4,5-T and its contaminant TCDD; cacodylic acid; and picloram. 38 C.F.R. § 3.307(a)(6) (2008). Although many color designations were made, the most prevalent was Agent Orange.

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D. Ascertaining Exposure

1. **Relevant Evidence** – to ascertain whether a veteran was exposed to herbicides through service in-country in Vietnam or duty or visitation in-country in Vietnam during the requisite period, or through service in other locations, look at the service personnel records, DD Form 214, military occupational specialties (MOS), dates, locations and units of assignment, flight manifests, ship and deck logs, official orders, Permanent Change of

Station (PCS) records, unit records, morning reports (available for Army personnel from November 1912 to 1974 although some units discontinued preparation of such reports in 1972 while others continued to 1980; also available for Air Force personnel from September 1947 to June 1966), muster rolls, pay records, passports, oral testimony, written statements and/or oral testimony of the veteran, buddy statements, and other types of anecdotal evidence (e.g., letters written to family members). Most of the challenging situations arise from cases involving United States Navy, Coast Guard, or Air Force personnel who allege some type of short-term or stopover duty in Vietnam. For example, a Navy veteran alleges that he spent a week in Vietnam awaiting transport out to a ship that was stationed in the waters off the shores of Vietnam (“blue-water vessels”), etc. A veteran’s credibility will need to be assessed and full

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on a direct basis under 38 U.S.C.A. §§ 1110, 1131, and 38 C.F.R. § 3.303, by showing that the claimed disease was incurred in or aggravated by service, including exposure to herbicides.

or otherwise proven by the evidence, the disease is presumed to be related to the inservice exposure (the regulation provides the nexus – see Pearlman v. West, 11 Vet. App. 443 (1998)) – provided it was manifested within the appropriate time frame. Hence, service connection should be granted.