



Uploaded to VFC Website

▶▶ ▶▶ **May 2013** ◀◀ ◀◀

This Document has been provided to you courtesy of Veterans-For-Change!

Feel free to pass to any veteran who might be able to use this information!

For thousands more files like this and hundreds of links to useful information, and hundreds of "Frequently Asked Questions, please go to:

[Veterans-For-Change](http://www.veteransforchange.org)

*Veterans-For-Change is a 501(c)(3) Non-Profit Corporation
Tax ID #27-3820181*

If Veteran's don't help Veteran's, who will?

We appreciate all donations to continue to provide information and services to Veterans and their families.

https://www.paypal.com/cgi-bin/webscr?cmd=_s-xclick&hosted_button_id=WGT2M5UTB9A78

Note:

VFC is not liable for source information in this document, it is merely provided as a courtesy to our members.



Presumptions of Service Connection for Diseases Associated with Exposure

38 USC 1116 - Presumptions of service connection for diseases associated with exposure to certain herbicide agents; presumption of exposure for veterans who served in the Republic of Vietnam

Legal Research Home > US Code > Veterans' Benefits > 38 USC 1116 - Presumptions of service connection for diseases associated with exposure to certain herbicide agents; presumption of exposure for veterans who served in the Republic of Vietnam

Sec. 1116. Presumptions of service connection for diseases associated with exposure to certain herbicide agents; presumption of exposure for veterans who served in the Republic of Vietnam

(a)

(1) For the purposes of section 1110 of this title, and subject to section 1113 of this title—

(A) a disease specified in paragraph (2) of this subsection becoming manifest as specified in that paragraph in a veteran who, during active military, naval, or air service, served in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975; and

(B) each additional disease (if any) that

(i) the Secretary determines in regulations prescribed under this section warrants a presumption of service-connection by reason of having positive association with exposure to an herbicide agent, and

(ii) becomes manifest within the period (if any) prescribed in such regulations in a veteran who, during active military, naval, or air service, served in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975, and while so serving was exposed to that herbicide agent, shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of evidence of such disease during the period of such service.

(2) The diseases referred to in paragraph (1)(A) of this subsection are the following:

(A) Non-Hodgkin's lymphoma becoming manifest to a degree of disability of 10 percent or more.

(B) Each soft-tissue sarcoma becoming manifest to a degree of disability of 10 percent or more other than osteosarcoma, chondrosarcoma, Kaposi's sarcoma, or mesothelioma.

(C) Chloracne or another acneform disease consistent with chloracne becoming manifest to a degree of disability of 10 percent or more within one year after the last date on which the veteran performed active military, naval, or air service in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975.

(D) Hodgkin's disease becoming manifest to a degree of disability of 10 percent or more.

(E) Porphyria cutanea tarda becoming manifest to a degree of disability of 10 percent or more within a year after the last date on which the veteran performed active military, naval, or air service in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975.

(F) Respiratory cancers (cancer of the lung, bronchus, larynx, or trachea) becoming manifest to a degree of disability of 10 percent or more.

(G) Multiple myeloma becoming manifest to a degree of disability of 10 percent or more.

(H) Diabetes Mellitus (Type 2).

(3) For purposes of this section, 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.

(b)

(1) Whenever the Secretary determines, on the basis of sound medical and scientific evidence, that a positive association exists between

(A) the exposure of humans to an herbicide agent, and

(B) the occurrence of a disease in humans, the Secretary shall prescribe regulations providing that a presumption of service connection is warranted for that disease for the purposes of this section.

(2) In making determinations for the purpose of this subsection, the Secretary shall take into account

(A) reports received by the Secretary from the National Academy of Sciences under section 3 of the Agent Orange Act of 1991, and

(B) all other sound medical and scientific information and analyses available to the Secretary. In evaluating any study for the purpose of making such determinations, the Secretary shall take into consideration whether the results are statistically significant, are capable of replication, and withstand peer review.

(3) An association between the occurrence of a disease in humans and exposure to an herbicide agent shall be considered to be positive for the purposes of this section if the credible evidence for the association is equal to or outweighs the credible evidence against the association.

(c)

(1)

(A) Not later than 60 days after the date on which the Secretary receives a report from the National Academy of Sciences under section 3 of the Agent Orange Act of 1991, the Secretary shall determine whether a presumption of service connection is warranted for each disease covered by the report. If the Secretary determines that such a presumption is warranted, the Secretary, not later than 60 days after making the determination, shall issue proposed regulations setting forth the Secretary's determination.

(B) If the Secretary determines that a presumption of service connection is not warranted, the Secretary, not later than 60 days after making the determination, shall publish in the Federal Register a notice of that determination. The notice shall include an explanation of the scientific basis for that determination. If the disease already is included in regulations providing for a presumption of service connection, the Secretary, not later than 60 days after publication of the notice of a determination that the presumption is not warranted, shall issue proposed regulations removing the presumption for the disease.

(2) Not later than 90 days after the date on which the Secretary issues any proposed regulations under this subsection, the Secretary shall issue final regulations. Such regulations shall be effective on the date of issuance.

(d) Whenever a disease is removed from regulations prescribed under this section—

(1) a veteran who was awarded compensation for such disease on the basis of the presumption provided in subsection (a) before the effective date of the removal shall continue to be entitled to receive compensation on that basis; and

(2) a survivor of a veteran who was awarded dependency and indemnity compensation for the death of a veteran resulting from such disease on the basis of such presumption shall continue to be entitled to receive dependency and indemnity compensation on such basis.

(e) Subsections (b) through (d) shall cease to be effective on September 30, 2015.

(f) For purposes of establishing service connection for a disability or death resulting from exposure to a herbicide agent, including a presumption of service-connection under this section, a veteran who, during active military, naval, or air service, served in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975, shall be presumed to have been exposed during such service to an herbicide agent containing dioxin or 2,4-dichlorophenoxyacetic acid, and may be presumed to have been exposed during such service to any other chemical compound in an herbicide agent, unless there is affirmative evidence to establish that the veteran was not exposed to any such agent during that service.