#### Department of Veterans Affairs M21-1, Part IV, Subpart ii

**Veterans Benefits Administration November 12, 2015**

**Washington, DC 20420**

#### Key Changes

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| Changes Included in This Revision | The table below describes the changes included in this revision of Veterans Benefits Manual M21-1, Part IV, “Compensation, DIC, and Death Compensation Benefits,” Subpart ii, “Compensation.”  ***Notes***:   * Unless otherwise noted, the term “claims folder” refers to the official, numbered, Department of Veterans Affairs (VA) repository – whether paper or electronic – for all documentation relating to claims that a Veteran and/or his/her survivors file with VA. * Minor editorial changes have also been made to bring the document into conformance with M21-1 standards. |

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| Reason(s) for the Change | Citation |
| To replace the guidance for conceding herbicide exposure in Thailand for specific military occupations with a cross reference, as this guidance was out-of-date after the prior revision to this section. | [M21-1, Part IV, Subpart ii, Chapter 1, Section H, Topic 5, Block a (IV.ii.1.H.5.a)](#Topic5a) |
| To update the procedures for verifying herbicide exposure in Thailand during the Vietnam era that were erroneously changed, reestablishing the guidance for Army Veterans on Army bases in Thailand and the U.S. Army and Joint Services Records Research Center (JSRRC) procedures. | [IV.ii.1.H.5.b](#Topic5b) |

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| Rescissions | None |

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| Authority | By Direction of the Under Secretary for Benefits |

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| Signature | Thomas J. Murphy, Director  Compensation Service |

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| Distribution | LOCAL REPRODUCTION AUTHORIZED |

### Section H. Developing Claims for Service Connection (SC) Based on Herbicide Exposure

#### Overview

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| In This Section | This section contains the following topics: |

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| Topic | Topic Name |
| 1 | Developing Claims Based on Herbicide Exposure in the Republic of Vietnam (RVN) |
| 2 | Developing Claims Based on Service Aboard Ships Offshore of the RVN or on Inland Waterways |
| 3 | Developing Claims Based on Exposure to Agent Orange for Select Air Force Personnel Through Contact With Contaminated C-123 Aircraft Used in RVN as Part of Operation Ranch Hand (ORH) |
| 4 | Developing Claims Based on Herbicide Exposure on the Korean Demilitarized Zone (DMZ) |
| 5 | Developing Claims Based on Herbicide Exposure in Thailand During the Vietnam Era |
| 6 | Developing Claims Based on Herbicide Exposure on Johnston Island |
| 7 | Developing Claims Based on Herbicide Exposure in Other Locations |
| 8 | Claims for Benefits Based on Birth Defects Due to Herbicide Exposure |
| 9 | Other Development Procedures for Claims Under the Nehmer Stipulation for Disabilities Resulting From Exposure to Herbicides |

#### 1. Developing Claims Based on Herbicide Exposure in the RVN

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| Introduction | This topic contains information on developing claims based on herbicide exposure in the RVN, including   * requirement for service in the RVN * the time period during which herbicide exposure may be presumed * considering qualifying length of service in the RVN * reviewing the claims folder for proof of RVN service * developing for proof of RVN service * the diseases for which SC may be presumed under the Agent Orange Act of 1991 * informing the Veteran about the Agent Orange Registry program, and * the action to take when the Veteran claims herbicide exposure but does not   claim a disability. |

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| Change Date | August 7, 2015 |

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| a. Requirement for Service in the RVN | For the purposes of establishing service connection (SC) under [38 CFR 3.307(a)(6)](http://www.ecfr.gov/cgi-bin/text-idx?SID=eeb25614ff133ec52c6f89f62aa156dc&mc=true&node=se38.1.3_1307&rgn=div8) and [38 CFR 3.309(e)](http://www.ecfr.gov/cgi-bin/text-idx?SID=eeb25614ff133ec52c6f89f62aa156dc&mc=true&node=se38.1.3_1309&rgn=div8), service in the Republic of Vietnam(RVN)must be shown.  ***Reference***: For more information on the definition of ***service in the RVN***, see M21-1, Part IV, Subpart ii, 2.C.3.e. |

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| b. Time Period During Which Herbicide Exposure May Be Presumed | The specific time period during which herbicide exposure in the RVN may be presumed is the period beginning on January 9, 1962, and ending on May 7, 1975.  ***Reference***: For more information on the definition of herbicide agent, see  M21-1, Part IV, Subpart ii, 2.C.3.b. |

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| c. Considering Qualifying Length of Service in the RVN | There is no requirement for a specified length of service, duty, or visitation in the RVN under [38 CFR 3.307(a)(6)(iii)](http://www.ecfr.gov/cgi-bin/text-idx?SID=eeb25614ff133ec52c6f89f62aa156dc&mc=true&node=se38.1.3_1307&rgn=div8). Any length of time in the RVN during the Vietnam era may be sufficient to establish SC for subsequently-developed diseases based on a presumption of exposure to herbicides. |

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| **d. Reviewing the Claims Folder for Proof of RVN Service** | Certain documents within the claims folder may show proof of RVN service.  See the table below for guidance on reviewing documents that may show RVN service between January 9, 1962, and May 7, 1975. |

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| **Review …** | **For …** |
| all certified *DD Forms 214, Certificate of Release or Discharge from Active Duty* | * entries such as *Foreign Service: Republic of Vietnam*, or * a separating station/last duty assignment in RVN. |
| military personnel records, including the *DA Form 20, Enlisted Qualification Record* | verification of service locations. |
| service treatment records (STRs) and dental records | treatment in the RVN with particular attention to Army Post Office (APO) numbers, which may be associated with a location in which the presumption of herbicide exposure applies.  ***Reference***: For a list of APO address numbers for the Asian Pacific Theater during the Vietnam Era, see the [General 1942-2002 APO-FPO Files](http://vbaw.vba.va.gov/bl/21/rating/stressor/general/GENERAL%201942-2002%20APO-FPO%20Files.pdf) document on the Compensation Service Stressor Verification web site.  ***Note***: The listing of APO-FPO addresses begins on page 4998. |

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| ***Important***: Receipt of the Vietnam Service Medal, Vietnam Campaign Medal, and/or the Vietnam Cross of Gallantry is ***not*** acceptable proof of RVN service for the purpose of proving herbicide exposure.   * The Vietnam Service Medal was given to service members who were stationed on ships offshore or flew high altitude missions over the RVN as well as those who served in Thailand. * The Vietnam Cross of Gallantry was issued by the Vietnamese Government to all units subordinate to Military Assistance Command (MACV) and the U.S. Army Vietnam, regardless of their physical presence in the RVN. Since this is a unit-level citation and not an individual citation, receipt of this medal alone is not acceptable proof of service in the RVN.   ***References***: For more information on   * RVN service in regards to Veterans who flew military missions over RVN but never actually landed in country, see [VAOPGCPREC 7-93](http://www.va.gov/ogc/opinions/1993precedentopinions.asp), and * select Air Force personnel who had contact with contaminated C-123 aircraft used in RVN, see M21-1, Part IV, Subpart ii, 1.H.3. |

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| **e. Developing for Proof of RVN Service** | If RVN service cannot be verified based on initial review of the materials in the claims folder   * develop to the claimant for proof of service in the RVN to include “buddy statements,” and * develop for Federal records containing proof of service in the RVN.   Use the table below to develop for Federal records containing proof of RVN service. |

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| **If the claims folder is...** | **Then ...** |
| in an electronic claims folder (eFolder) | submit a request through the Personnel Information Exchange System (PIES), using request code O50.  ***Note***: Do *not* resubmit a PIES O50 request if already submitted and received under prior claims development. |
| a paper claims folder | submit a request through PIES, using request code O34.  ***Note***: If the response to the PIES O34 request is negative, request the entire personnel record using the PIES O18 code. |

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| ***Exception***: Use PIES O39 request code to verify service if the Veteran claims TDY to the RVN during the early period of the Southeast Asian conflict from January 9, 1962, to August 5, 1964.  ***Important***: A claim may not be denied solely because service in the RVN cannot be verified   * until the end of the initial 30-day and 30-day follow-up response periods, and/or * all requested Federal records needed to verify service in the RVN have been received *or* a formal response has been received indicating the records are unavailable.   ***Reference***: For more information on requesting records through PIES, see the [*PIES Participant Guide*](http://vbaw.vba.va.gov/bl/21/publicat/Users/Pies/PIESparticipantguide.zip). |

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| **f. Diseases for Which SC May Be Presumed Under the Agent Orange Act of 1991** | The Agent Orange Act of 1991, *Public Law (PL) 102-4*, established a presumption of SC for Veterans with service in the RVN during the Vietnam Era who subsequently develop specific diseases to a degree of 10 percent or more.  ***Reference***: For a list of diseases presumptive to herbicide exposure as well as the date the disabilities became subject to presumptive SC under [38 CFR 3.309(e)](http://www.ecfr.gov/cgi-bin/text-idx?SID=ce4db74ee1e5ecc339221e5184616cc0&mc=true&node=se38.1.3_1309&rgn=div8), see M21-1, Part IV, Subpart ii, 2.C.3.i. |

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| **g. Informing the Veteran About the Agent Orange Registry Program** | If the development activity determines further development is necessary to verify RVN service and requests the information per M21-1, Part IV, Subpart ii, 1.H.1.e, the development activity should also   * inform the Veteran of the availability of hospital examinations and treatment as part of the Agent Orange Registry program, and * if the Veteran has already had the herbicide examination or been treated for herbicide exposure, request that the Veteran submit * a copy of the examination or treatment report, or * the name of the Department of Veterans Affairs (VA) facility performing the examination or treatment so that a copy of the report may be associated with the claims folder. |

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| **h. Action to Take When the Veteran Claims Herbicide Exposure but Does Not Claim a Disability** | A claim is not substantially complete if a Veteran claims herbicide exposure during service, but does not claim SC for a specific disability. In cases such as these   * inform the Veteran that he/she *must* identify a specific disability, since exposure in and of itself is not a disability, and * ask the Veteran to identify the disability(ies) that resulted from exposure to herbicides during service.   ***Important***:   * do not * process the claim as a denial, or * establish end product (EP) control for the incomplete claim, and * whenever possible, telephone the Veteran to obtain the information needed to substantiate the claim.   ***Reference***: For more information on what constitutes a substantially complete application for benefits, see   * [38 CFR 3.159(a)(3)](http://www.ecfr.gov/cgi-bin/text-idx?SID=eeb25614ff133ec52c6f89f62aa156dc&mc=true&node=se38.1.3_1159&rgn=div8), and * M21-1, Part I, 1.B.1.b. |

#### 2. Developing Claims Based on Service Aboard Ships Offshore of the RVN or on Inland Waterways

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| Introduction | This topic contains information on developing claims based on service aboard ships offshore of the RVN or on inland waterways, including   * the definition of inland waterways * review of military service personnel records to verify service on ships offshore of the RVN or on inland waterways * presumption of exposure to herbicides with verified service aboard ships operating on inland waterways * developing claims based on exposure to herbicides during service aboard ships operating in offshore waters of the RVN * requesting verification of service aboard ships offshore of the RVN or on inland waterways from the National Personnel Records Center (NPRC) * requesting verification of service aboard ships offshore of the RVN or on inland waterways from the U.S. Army and Joint Services Records Research Center (JSRRC) * processing claims based on storage of Agent Orange aboard U.S. Navy and Coast Guard ships, and * mandatory claims folder documentation for Veterans claiming herbicide exposure aboard a ship in offshore waters. |

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| Change Date | August 7, 2015 |

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| **a. Definition of Inland Waterways** | The Agent Orange Act of 1991 implemented under [38 C.F.R. 3.307(a)(6)(iii)](http://www.ecfr.gov/cgi-bin/text-idx?SID=0dc37828ef5a0124bce2121f73da0c6b&mc=true&node=se38.1.3_1307&rgn=div8) requires “duty or visitation” within the RVN, or on its inland waterways, between January 9, 1962, and May 7, 1975, to establish a presumption of Agent Orange exposure.  ***Inland waterways*** are those rivers, canals, estuaries, delta areas, and interior or enclosed bays within the land boundaries of RVN itself. Agent Orange aerial spraying occurred within the land boundaries and affected the inland waterways.  ***Important***: Because Agent Orange was not sprayed over RVN’s offshore waters, there is no presumption of exposure for service on the offshore open waters. |

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| b. Review of Military Service Personnel Records to Verify Service on Ships Offshore of the RVN or on Inland Waterways | Follow the guidance in the table below to verify service on a ship in the offshore waters or inland waterways of the RVN. |

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| Step | Action |
| 1 | Review military service personnel records for   * the ship on which the Veteran served in the waters offshore of the RVN, and/or * any service involving duty or visitation on land in the RVN. |
| 2 | Search the [Vietnam Era Navy Ship Agent Orange Exposure Development Site](http://vbaw.vba.va.gov/bl/21/rating/VENavyShip.htm) to verify whether the ship on which the claimant served   * traveled on inland waterways * docked to a pier or the shore of the RVN, or * operated on close coastal waters for extended periods of time. |
| 3 | Accept the Veteran’s statement that he/she went ashore from a ship as evidence of presumptive exposure to herbicides *if* there is evidence that the Veteran’s ship   * docked to the shore of the RVN, or * sent crew members ashore while operating on close coastal waters for extended periods of time, *and* * the claimant was stationed aboard the ship at that time.   ***Important***: The presumption of herbicide exposure extends to any Veteran who served aboard a ship that entered *inland* waterways. |

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| ***Reference***: For more information on reviewing the claims folder for proof of  RVN service, see M21-1, Part IV, Subpart ii, 1.H.1.d. |

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| c. Presumption of Exposure to Herbicides With Verified Service Aboard Ships Operating on Inland Waterways | Veterans with verified service aboard ships operating on RVN *inland* waterways qualify for presumption of Agent Orange exposure according to the Agent Orange Act of 1991 implemented under [38 C.F.R. 3.307(a)(6)(iii)](http://www.ecfr.gov/cgi-bin/text-idx?SID=0dc37828ef5a0124bce2121f73da0c6b&mc=true&node=se38.1.3_1307&rgn=div8).  ***Note***: Veterans are *not* required to state that they went ashore if the service aboard ships during the time the ships were operating on inland waterways is verified.  ***References***: For more information on   * the definition of inland waterway, see M21-1, Part IV, Subpart ii, 1.H.2.a, and * verification of service aboard ships operating on inland waterways, see * M21-1, Part IV, Subpart ii, 1.H.2.b, and * M21-1, Part IV, Subpart ii, 1.H.2.e-g. |

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| d. Developing Claims Based on Exposure to Herbicides During Service Aboard Ships Operating in Offshore Waters of the RVN | When the evidence of record is not sufficient to verify a Veteran’s claim of exposure to herbicides while serving aboard a ship that operated on the offshore waters of the RVN, then develop for   * evidence showing the ship * operated temporarily on the RVN inland waterways * docked on the shores or piers of the RVN, or * operated on close coastal waters for extended periods, with additional evidence showing * crew members went ashore, or * smaller vessels from the ship went ashore regularly with supplies or personnel * evidence placing the Veteran onboard the ship at the time the ship * operated on inland waterways * docked to the shore or pier, or * operated on close coastal waters for extended periods, *and* * the Veteran’s statement as to whether he/she went ashore when the ship docked or operated on close coastal waters for extended periods, if the evidence shows the ship docked to the shore or pier or that crew members were sent ashore when the ship operated on close coastal waters.   ***References***:   * See the [Vietnam Era Navy Ship Agent Orange Exposure Development Site](http://vbaw.vba.va.gov/bl/21/rating/VENavyShip.htm) for information on * ships associated with service in the RVN and exposure to herbicides * American Naval fighting ships, and * U.S. Naval bases and support activities in Vietnam. * See M21-1, Part IV, Subpart ii, 2.C.3.m for information on * “blue water” versus “brown water” Veterans, and * presumption of herbicide exposure for “brown water” U.S. Navy and Coast Guard Veterans. |

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| e. Requesting Verification of Service Aboard Ships Offshore of the RVN or on Inland Waterways From the NPRC | If the claimant’s military service personnel records are not currently in the claims folder and there is an assertion of a disability resulting from exposure to herbicides while serving on a ship in the waters offshore of the RVN or on the inland waterways, follow the procedures in the table below to develop for service personnel records from the National Personnel Records Center (NPRC). |

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| If the claims folder is … | Then … |
| an eFolder | submit a request through PIES, using request code O50.  ***Note***: Do *not* resubmit a PIES O50 request if already submitted and a response has been received under prior claims development. |
| a paper claims folder | submit a request through PIES, using request code O18. |

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| f. Requesting Verification of Service Aboard Ships Offshore of the RVN or on Inland Waterways From the JSRRC | Prior to submitting a PIES O34 request to the U.S. Army and Joint Services Records Research Center (JSRRC) for verification of herbicide exposure, the development activity must ensure   * all other possible avenues of verifying exposure to herbicides have been exhausted, to include * following the development guidance in M21-1, Part IV, Subpart ii, 1.H.2.a-e, and * consulting the resources on * the [Vietnam Era Navy Ship Agent Orange Exposure Development Site](http://vbaw.vba.va.gov/bl/21/rating/VENavyShip.htm) * the U.S. Navy web site [*Dictionary of American Naval Aviation Squadrons*](http://www.history.navy.mil/research/histories/naval-aviation-history/dictionary-of-american-naval-aviation-squadrons-volume-1.html), and * the [*Dictionary of American Naval Aviation Squadrons*](http://www.history.navy.mil/research/histories/naval-aviation-history/dictionary-of-american-naval-aviation-squadrons-volume-1.html),which contains the histories of all attack squadrons (“VA” prefix) and strike fighter squadrons (“VFA” prefix), for Navy flight personnel who state they served with a unit in Vietnam * the Veteran has identified a cumulative 60-day time frame for docking or inland waterway travel which may include different dates as long as the cumulative number of days does not exceed 60 days, and * the service department has been unable to provide verification that the Veteran went ashore or traveled on inland waterways.   ***Important***: The PIES O34 request to JSRRC *must* include the following information   * the name and hull number of the ship, such as U.S. Ship (USS) Galveston (CLG 3), and * the dates during which the ship * traveled on inland waterways * docked to shore or pier, or * sent crew members ashore.   ***Note***: Concede exposure to herbicides on a presumptive basis if the   * Veteran’s unit history shows RVN in-country service, consistent with the Veteran’s dates of assignment to that unit, and * Veteran provides a lay statement of personal in-country service. |

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| g. Processing Claims Based on Storage of Agent Orange Aboard U.S. Navy and Coast Guard Ships | Agent Orange was ***not*** transported, stored, or used aboard U.S. Navy or Coast Guard ships.  If a Veteran claims exposure to herbicides due to transport, storage, or use aboard a U.S. Navy or Coast Guard ship, associate a copy of the JSRRC memorandum shown in M21-1, Part IV, Subpart ii, 1.H.2.h with the Veteran’s claims folder. |

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| h. Mandatory Claims Folder Documentation for Veterans Claiming Herbicide Exposure Aboard a Ship in Offshore Waters | When a Veteran claims exposure to herbicides during service aboard a ship in offshore waters based on shipboard herbicide transportation, storage, or use, associate a copy of the JSRRC memorandum provided below with the Veteran’s claim folder. |

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| **DEPARTMENT OF THE ARMY**  **U.S. ARMY & JOINT SERVICES RECORDS RESEARCH CENTER**  **7701 TELEGRAPH ROAD**  **KINGMAN BUILDING, ROOM 2C08**  **ALEXANDRIA, VA 22315-3828**  AAHS-RDC 01 May 09  MEMORANDUM FOR RECORD  SUBJECT: Joint Services Records Research Center Statement on Research Findings Regarding Navy and Coast Guard Ships During the Vietnam Era  1. In the course of its research efforts, the JSRRC has reviewed numerous official military documents, ships histories, deck logs, and other sources of information related to Navy and Coast Guard ships and the use of tactical herbicide agents, such as Agent Orange, during the Vietnam Era.  2. To date, the JSRRC has found no evidence that indicates Navy or Coast Guard ships transported tactical herbicides from the U.S. to the Republic of Vietnam or that ships operating off the coast of Vietnam used, stored, tested, or transported tactical herbicides. Additionally, the JSRRC cannot document or verify that a shipboard Veteran was exposed to tactical herbicides based on contact with aircraft that flew over Vietnam or equipment that was used in Vietnam.  3. Therefore, the JSRRC can provide no evidence to support a Veteran’s claim of exposure to tactical herbicide agents while serving aboard a Navy or Coast Guard ship during the Vietnam era.    /s/  Domenic A. Baldini  Director |

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| ***Note***: Association of the JSRRC memorandum with the claims folder will   * substitute for individual inquiries to the Compensation Service Agent Orange mailbox and to JSRRC, and * establish that JSRRC has no evidence to support a claim of herbicide exposure during shipboard service. |

**3. Developing Claims Based on Exposure to Agent Orange for Select Air Force Personnel Through Contact With Contaminated C-123 Aircraft Used in RVN as Part of ORH**

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| **Change Date** | August 7, 2015 |

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| a. RO Procedure for Claims Based on Exposure to Agent Orange Through Contaminated C-123 Aircraft as Part of ORH | The St. Paul Regional Office (RO) has ***exclusive*** jurisdiction of all claims for service-connected (SC) disability or death associated with Agent Orange exposure through regular and repeated duties flying on, or maintaining, contaminated former Operation Ranch Hand (ORH) C-123 aircraft, which were used to spray Agent Orange in Vietnam.  The Claims Assistant (CA) or Intake Analyst (IA) should follow the steps in the table below when a claim based on regular and repeated C-123 exposure is received at the RO. |

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| Step | Action |
| 1 | Review the claim for Agent Orange and/or C-123 annotation. |
| 2 | Establish the proper EP with the *C-123 Agent Orange* flash. |
| 3 | Attach the *C-123 Agent Orange* special issue contention for each of the presumptive disabilities claimed. |
| 4 | Forward the claim to the St. Paul RO for processing. |

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| ***Reference***: For more information on processing claims based on contaminated C-123 aircraft, see the [C-123 Aircraft Agent Orange Exposure](http://www.benefits.va.gov/compensation/agentorange-c123.asp) web site. |

#### 4. Developing Claims Based on Herbicide Exposure on the Korean DMZ

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| Introduction | This topic contains information on developing claims based on herbicide exposure in the Korean DMZ, including   * requirements for presumptive SC based on herbicide exposure in the Korean DMZ, and * units or other military entities identified by the Department of Defense (DoD) as operating in the Korean DMZ during the qualifying time period. |

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| Change Date | August 7, 2015 |

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| a. Requirements for Presumptive SC Based on Herbicide Exposure in the Korean DMZ | Under [38 CFR 3.307(a)(6)(iv)](http://www.ecfr.gov/cgi-bin/text-idx?SID=eeb25614ff133ec52c6f89f62aa156dc&mc=true&node=se38.1.3_1307&rgn=div8) and effective February 24, 2011, extend the presumption of herbicide exposure to any Veteran who served   * in a unit determined by VA or the Department of Defense (DoD) to have operated in the Korean Demilitarized Zone (DMZ), and * between April 1, 1968, and August 31, 1971.   ***Note***: Before the amendment of [38 CFR 3.307(a)(6)(iv)](http://www.ecfr.gov/cgi-bin/text-idx?SID=eeb25614ff133ec52c6f89f62aa156dc&mc=true&node=se38.1.3_1307&rgn=div8) which became effective February 24, 2011, VA conceded exposure to herbicides on a direct basis for Veterans who served between April 1968 and July 1969 in one of the groups listed under M21-1, Part IV, Subpart ii, 1.H.4.b. |

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| b. Units or Other Military Entities Identified by DoD as Operating in the Korean DMZ During the Qualifying Time Period | The table below shows the units or other military entities that DoD has identified as operating in the Korean DMZ during the qualifying time period of April 1, 1968, to August 31, 1971. |

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| Combat Brigade of the 2nd Infantry Division | Division Reaction Force | 3rd Brigade of the 7th Infantry Division |
| 1st Battalion, 38th Infantry | 4th Squadron, 7th Cavalry, Counter Agent Company | 1st Battalion, 17th Infantry |
| 2nd Battalion, 38th Infantry |  | 1st Battalion, 31st Infantry |
| 1st Battalion, 23rd Infantry |  | 1st Battalion, 32nd Infantry |
| 2nd Battalion, 23rd Infantry |  | 2nd Squadron, 10th Cavalry |
| 3rd Battalion, 23rd Infantry |  | 2nd Battalion, 17th Infantry |
| 2nd Battalion, 31st Infantry  ***Note***: Service records may show assignment to either the 2nd or the 7th Infantry Division. |  | 2nd Battalion, 31st Infantry  ***Note***: Service records may show assignment to either the 2nd or the 7th Infantry Division. |
|  |  | 2nd Battalion, 32nd Infantry |
| 3rd Battalion, 32nd Infantry  ***Note***: Service records may show assignment to either the 2nd or the 7th Infantry. |  | 3rd Battalion, 32nd Infantry  ***Note***: Service records may show assignment to either the 2nd or the 7th Infantry. |
| 1st Battalion, 9th Infantry |  | 1st Battalion, 73rd Armor |
| 2nd Battalion, 9th Infantry |  |  |
| 1st Battalion, 72nd Armor |  |  |
| 2nd Battalion, 72nd Armor |  |  |
| 1st Battalion, 12th Artillery |  |  |
| 1st Battalion, 15th Artillery |  |  |
| 7th Battalion, 17th Artillery |  |  |
| 5th Battalion, 38th Artillery |  |  |
| 6th Battalion, 37th Artillery |  |  |
| **Other Qualifying Assignments** | | |
| 2nd Military Police Company, 2nd Infantry Division | | |
| 2nd Engineer Battalion, 2nd Infantry Division | | |
| 13th Engineer Combat Battalion | | |
| United Nations Command Security Battalion-Joint Security Area (UNCSB-JSA) | | |
| Crew of the USS Pueblo | | |

#### 5. Developing Claims Based on Herbicide Exposure in Thailand During the Vietnam Era

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| **Introduction** | This topic contains information on developing claims based on herbicide exposure in Thailand during the Vietnam Era, including   * special consideration for claims based on herbicide exposure in Thailand during the Vietnam Era, and * verifying exposure to herbicides in Thailand during the Vietnam Era. |

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| **Change Date** | November 12, 2015 |

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| **a. Special Consideration for Claims Based on Herbicide Exposure in Thailand During the Vietnam Era** | Compensation Service has determined that a special consideration of herbicide exposure on a factual basis should be extended to Veterans whose duties placed them on or near the perimeters of Thailand military bases.  ***Reference***: For more information on verifying exposure to herbicides in Thailand, see M21-1, Part IV, Subpart ii, 1.H.5.b. |

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| **b. Verifying Exposure to Herbicides in Thailand During the Vietnam Era** | When a Veteran with service in Thailand during the Vietnam Era claims SC for disability based on herbicide exposure, follow the steps in the table below to verify exposure to herbicides. |

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| **Step** | **Action** |
| 1 | Did the Veteran serve in the U.S. Air Force in Thailand during the Vietnam Era   * at one of the following Royal Thai Air Force Bases (RTAFBs) * U-Tapao * Ubon * Nakhon Phanom * Udorn * Takhli * Korat, or * Don Muang, *and* * as an Air Force * security policeman * security patrol dog handler * member of the security police squadron, or * otherwise near the air base perimeter as shown by evidence of daily work duties, performance evaluation reports, or other credible evidence? * If *yes*, concede herbicide exposure on a direct/facts-found basis. * If *no*, proceed to Step 2.   ***Notes***:   * Concede herbicide exposure on a direct or facts-found basis for U.S. Army Veterans who served on RTAFBs in Thailand if the Veteran * provides a statement that he was involved in perimeter security duty, *and* * there is additional credible evidence supporting this statement. * U.S. Army personnel may have provided RTAFB security early in the war before the base was fully operational. |
| 2 | Did the Veteran serve at a U.S. Army Base in Thailand during the Vietnam Era   * as a member of a military police (MP) unit, or * with a military police occupational specialty? * If *yes*, concede exposure to herbicides on a facts-found or direct basis *if* the Veteran states his duty placed him at or near the base perimeter. * If *no*, go to Step 3. |
| 3 | Ask the Veteran for the   * approximate dates * location, and * nature of the alleged exposure. |
| 4 | Did the Veteran furnish this information within 30 days?   * If *yes,* proceed to Step 5. * If *no*, * refer the case to the JSRRC coordinator to make a formal finding that sufficient information required to verify herbicide exposure does not exist. (***Note***: For a sample of a formal finding, see M21-1, Part IV, Subpart ii, 1.D.4.c.), and * decide the claim based on the evidence of record, ensuring the rating decision and decision notice adequately explain the basis of the decision. |
| 5 | Review the information provided by the Veteran and proceed to Step 6. |
| 6 | Can exposure to herbicides be acknowledged on a direct or facts-found basis as a result of this review?   * If *yes*, proceed with any other necessary development before referring the claim to the rating activity. * If *no*, proceed to Step 7. |
| 7 | Has the Veteran provided sufficient information to permit a search by the JSRRC?   * If *yes*, send a request to the JSRRC for verification of exposure to herbicides. * If *no*, * refer the case to the JSRRC coordinator to make a formal finding that sufficient information required to verify herbicide exposure does not exist. (***Note***: For a sample of a formal finding, see M21-1, Part IV, Subpart ii, 1.D.4.c.), and * decide the claim based on the evidence of record, ensuring the rating decision and decision notice adequately explain the basis of the decision. |

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| ***Reference***: For more information on Thailand military bases and herbicide exposure, see the [VA Public Health site](http://www.publichealth.va.gov/exposures/agentorange/locations/thailand.asp). |

#### 6. Developing Claims Based on Herbicide Exposure on Johnston Island

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| Introduction | This topic contains information on developing claims based on herbicide exposure on Johnston Island, including   * an overview of herbicide storage on Johnston Island, and * a Fact Sheet on herbicide storage on Johnston Island. |

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| Change Date | August 7, 2015 |

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| **a. Overview of Herbicide Storage on Johnston Island** | Herbicides 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 direct handling of herbicides.  If a Veteran alleges exposure to herbicides during service on Johnston Island, obtain verification of exposure on a factual basis.  ***Reference***: For more information on verifying exposure to herbicides on a factual basis, see M21-1, Part IV, Subpart ii, 1.H.7. |

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| b. Fact Sheet: Herbicide Storage on Johnston Island | Below is a *Fact Sheet* on the storage of the herbicide Agent Orange on Johnston Island. |

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| FACT SHEET: STORAGE OF AGENT ORANGE ON JOHNSTON ISLAND   * Approximately 1.5 million gallons of Agent Orange (AO) were stored on Johnston Island (JI) between April 1972 and September 1977, when it was incinerated at sea. * There were approximately 25 thousand 55-gallon drums stored in rows stacked three high on about 3.5 acres on the NW corner of the island. The storage location was selected because the east-to-west trade winds would rapidly disburse any airborne AO into the Pacific. * Military contractors (and not U.S. military personnel) were solely responsible for site monitoring and redrumming and dedrumming activities. The storage area was fenced and off limits from a distance. * The entire inventory of AO was screened for leaks daily. Leaking drums were re-drummed on a weekly basis. Fresh spillage was absorbed, and surface soil was scraped and sealed. * Leakage of drums began in 1974. Between 1974 and 1977, the equivalent of the contents of 405 drums was leaked. * The floor of the storage site was comprised of dense coral. Because of the composition and properties of coral, leaked AO was literally bound to the coral, providing little opportunity for AO to become airborne. * A 1974 Air Force report found that the condition of the storage area provided evidence of the rapid identification of leaking drums, as few spill areas were observed. * Soil samples in 1974 revealed that herbicide contamination was not detected outside of the storage yard except in close proximity to the redrumming operation. * Water samples were collected and analyzed twice per month from 10 different locations. * A 1978 Air Force Land Based Environmental Monitoring study concluded that no adverse consequences of the minimal release of AO into the JI environment during the dedrumming operation were observed. The report further stated that “exposure to (land-based operations) workers to airborne 2,4-D and 2,4,5-T were well below permissible levels.” |

#### 7. Developing Claims Based on Herbicide Exposure in Other Locations

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| Change Date | August 7, 2015 |

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| a. Verifying Herbicide Exposure on a Factual Basis in Other Locations | Follow the steps in the table below to verify potential herbicide exposure on a factual basis when the Veteran alleges exposure in locations other than RVN, Korean DMZ, or Thailand. |

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| **Step** | **Action** |
| 1 | Ask the Veteran for the approximate dates, location(s), and nature of the alleged exposure to herbicides. Allow the Veteran 30 days to submit the requested information. |
| 2 | After 30 days, did VA receive this information?   * If *yes,* go to Step 3. * If *no* * refer the case to the RO JSRRC coordinator to make a formal finding that sufficient information required to verify herbicide exposure does not exist. (***Note***: For a sample formal finding, see [M21-1, Part IV, Subpart ii, 1.D.4.c](imi-internal:M21-1MRIV.ii.1.D.16.c).), and * decide the claim based on the evidence of record. |
| 3 | * Furnish the Veteran’s detailed description of exposure to Compensation Service at VAVBAWAS/CO/211/AGENTORANGE, and * request a review of DoD’s inventory of herbicide operations to determine whether herbicides were used as claimed. |
| 4 | Did Compensation Service confirm that herbicides were used as claimed?   * If *yes*, determine whether SC is otherwise in order. * If *no*, go to Step 5. |
| 5 | Has the Veteran provided sufficient information to permit a search by the JSRRC?   * If *yes*, send a request to the JSRRC for verification of exposure to herbicides. * If *no* * refer the case to the RO JSRRC coordinator to make a formal finding that sufficient information required to verify herbicide exposure does not exist. (***Note***: For a sample formal finding that VA lacks the information JSRRC requires, see M21-1, Part III, Subpart iii, 2.E.8.g.), and * decide the claim based on the evidence of record. |

#### 8. Claims for Benefits Based on Birth Defects Due to Herbicide Exposure

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| Change Date | August 7, 2015 |

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| a. Considering Claims for Benefits Based on Birth Defects | Claims for   * benefits for a child with spina bifida and other birth defects, to include development procedures, are discussed in [M21-1, Part VI](http://vbaw.vba.va.gov/BL/21/M21/content/contents.asp?address=M21-1MRVI), and * additional benefits for natural children born with certain birth defects to female Vietnam Veterans have been authorized under *PL 106-419*.   ***Important***: The law limits the birth defects for which VA may pay benefits. Do not award compensation for the following condition on the basis that SC for these conditions is not authorized by law   * birth defects resulting from a familial disorder * a birth-related injury, or * a fetal or neonatal infirmity, with well-established, unrelated causes.   ***Reference***: For more information on claims for benefits for birth defects from children of Vietnam Veterans, see   * [38 CFR 3.814](http://www.ecfr.gov/cgi-bin/text-idx?SID=eeb25614ff133ec52c6f89f62aa156dc&mc=true&node=se38.1.3_1814&rgn=div8) * [38 CFR 3.815](http://www.ecfr.gov/cgi-bin/text-idx?SID=eeb25614ff133ec52c6f89f62aa156dc&mc=true&node=se38.1.3_1815&rgn=div8) * [38 U.S.C. Chapter 18](http://www.law.cornell.edu/uscode/html/uscode38/usc_sup_01_38_10_II_20_18.html), and * M21-1, Part VI. |

**9. Other Development Procedures for Claims Under the Nehmer Stipulation for Disabilities Resulting From Exposure to Herbicides**

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| **Introduction** | This topic contains information on developing claims under the *Nehmer* stipulation for disabilities resulting from exposure to herbicides, including   * development actions following claims folder review * end product control of claims under the *Nehmer* stipulation * information to include in *Nehmer* development letters to the Veteran * scheduling an examination for a *Nehmer* claim, and * returned mail procedures for claims based on the *Nehmer* stipulation. |

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| **Change Date** | August 7, 2015 |

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| **a. Development Actions Following Claims Folder Review** | Development actions following a *Nehmer* claims folder review may include development for   * medical evidence * verification of service * dependency * payee status * military pay, and/or * burial information. |

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| **b. EP Control of Claims Under the Nehmer Stipulation** | Control all *Nehmer* claims as follows: |

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| **If ...** | **Then ...** |
| * the claim is received prior to the Secretary’s announcement to add new presumptive conditions, *and* * requires readjudication based on a prior claim and decision for the benefit | control with EP 687. |
| * the claim is a new claim that requires adjudication, *and* * it is received between the date of the Secretary’s announcement and the date the final regulation was published | control with EP 681. |
| the claimed benefit is peripheral neuropathy (PN) | * conduct a one-time Pending Inquiry File (PIF) Clear (PCLR) of EP 686 when the * claims folder is sent to QTC Medical Services for initial checklist review of eligibility for SC of PN under the *Nehmer* stipulation, or * RO completes the initial checklist review of eligibility for SC of PN under the *Nehmer* stipulation, and * control the adjudication of positive checklist cases with EP 020 and special issue indicator of *Nehmer AO Peripheral Neuropathy*. |

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| ***Important***:Any subsequent claims received after establishment of the appropriate *Nehmer* EP will be worked under a separate, appropriate EP, whether rating or non-rating.  ***Reference***: For more information on PN for *Nehmer* purposes, see M21-1, Part IV, Subpart ii, 2.C.3.j. |

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| c. Information to Include in Nehmer Development Letters to the Veteran | When readjudication of a claim under the *Nehmer* stipulation requires development to the Veteran, letters to the Veteran should include notification that   * the claim will be readjudicated with all of the procedural rights normally applicable to VA decisions * the Veteran will be afforded a reasonable time to present evidence or reasons why the claim should be considered under the new regulations, and * if the VA does not receive such evidence or reasons, VA will make a decision based on the evidence considered in the previously decided claim. |

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| **d. Scheduling an Examination for a Nehmer Claim** | The mere passage of time since a VA examination was completed does not automatically require VA to provide a new medical examination, as stated in [*Palczewski v. Nicholson*](http://www.uscourts.cavc.gov/documents/Palczewski_04-1001.pdf), 21 Vet.App. 174, 182 (2007). The determination of whether an examination is warranted is made on a case-by-case basis primarily focused on whether the evidence of record is adequate for rating purposes and accurately reflects the overall disability picture.  ***Important***: When entering an examination request, notify the VA medical facility in the *Remarks* section that the claim is a *Nehmer* case and should not be canceled due to incorrect jurisdiction. |

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| **e. Returned Mail Procedures for Claims Based on the Nehmer Stipulation** | Upon receipt of mail that has been returned as undeliverable pertaining to a *Nehmer* claim   * review the returned mail for any forwarding address indicated by the U.S. Postal Service * review the claims folder * review Share, Compensation and Pension Records Interchange (CAPRI), and other systems, as applicable, to verify the validity of the address utilized in the development letter * if a valid address still cannot be verified, attempt to make telephone contact with the payee, and * if there is evidence of a previous electronic funds transfer with complete bank information, send a letter to the bank.   ***Important***: Document all efforts to locate a payee on *VA Form 27-0820, Report of General Information* summarizing each action taken to identify a current address. If VA attempted to locate multiple payees, a separate *VA Form 27-0820* shall be completed for each payee with a summary for each individual. After completion, the claim shall be forwarded to the rating activity for a decision based on the evidence of record, if one is not yet completed. |