(VSR VIP Pre-D) Herbicide Exposure Claims Development

Instructor Lesson Plan

Time Required: 3 Hours

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| Lesson Description | |
| The information below provides the instructor with an overview of the lesson and the materials that are required to effectively present this instruction. | |
| TMS # | 4505199 |
| Prerequisites | None |
| target audience | The target audience for (VSR VIP Pre-D) Herbicide Exposure Claimsis entry-level VSRs.  Although this lesson is targeted to teach the entry-level VSR employee, it may be taught to other VA personnel as mandatory or refresher type training. |
| Time Required | 3 hours |
| Materials/ TRAINING AIDS | Lesson materials:   * Herbicide Exposure Claims PowerPoint Presentation * Herbicide Exposure Claims Trainee Handout |
| Training Area/Tools | The following are required to ensure the trainees are able to meet the lesson objectives:   * Classroom or private area suitable for participatory discussions * Seating, writing materials, and writing surfaces for trainee note taking and participation * Handouts, which include a practical exercise * Large writing surface (easel pad, chalkboard, dry erase board, overhead projector, etc.) with appropriate writing materials * Computer with PowerPoint software to present the lesson material |
| Pre-Planning | * Become familiar with all training materials by reading the Instructor Lesson Plan while simultaneously reviewing the corresponding PowerPoint slides. This will provide you the opportunity to see the connection between the Lesson Plan and the slides, which will allow for a more structured presentation during the training session. * Become familiar with the content of the trainee handouts and their association to the Lesson Plan. * Practice is the best guarantee of providing a quality presentation. At a minimum, do a complete walkthrough of the presentation to practice coordination between this Lesson Plan, the trainee handouts, and the PowerPoint slides and ensure your timing is on track with the length of the lesson. * Ensure that there are copies of all handouts before the training session. * When required, reserve the training room. * Arrange for equipment such as flip charts, an overhead projector, and any other equipment (as needed). * Talk to people in your office who are most familiar with this topic to collect experiences that you can include as examples in the lesson. * This lesson plan belongs to you. Feel free to highlight headings, key phrases, or other information to help the instruction flow smoothly. Feel free to add any notes or information that you need in the margins. |
| Training Day | * Arrive as early as possible to ensure access to the facility and computers. * Become familiar with the location of restrooms and other facilities that the trainees will require. * Test the computer and projector to ensure they are working properly. * Before class begins, open the PowerPoint presentation to the first slide. This will help to ensure the presentation is functioning properly. * Make sure that a whiteboard or flip chart and the associated markers are available. * Provide a sign in sheet and at the conclusion of the session, ensure that all trainees sign in. |

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| Introduction to Herbicide Exposure Claims | | |
| INSTRUCTOR INTRODUCTION | | Complete the following:   * Introduce yourself * Orient learners to the facilities * Ensure that all learners have the required handouts |
| time required | | 0.25 hours |
| Purpose of Lesson | | This lesson is intended to provide an introduction to herbicide exposure claims and its unique development requirements. |
| Lesson Objectives  Slide 2  Handout 2 | In order to accomplish the purpose of this lesson, the VSR will be required to accomplish the following lesson objectives.  After this training, the trainee will be able to:   * Explain the history of herbicide claims processing * Identify the types of Vietnam service * Establish the required special issue * Develop for necessary evidence * Identify the presumptive conditions associated with herbicide exposure * Complete steps required to route the claim to the Centralized Processing Regional Offices | |
| Motivation | While not as common as they historically were, claims based on herbicide exposure are still frequently received. Also, while development procedures have been streamlined in the past few years, herbicide claims are still quite complex. It is important that we work these claims correctly the first time they are received. *All initial processing of Herbicide Exposure claims will be completed at Centralized RO locations.* | |
| References  Slide 3  Handout 3 | All M21-1 references are found in the [Compensation Pension Knowledge Management Portal](https://vaww.compensation.pension.km.va.gov/):   * [CFR 3.307(a)(6), Diseases associated with exposure to certain herbicide agents](https://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58) * [CFR 3.309(e), Disease associated with exposure to certain herbicide agents](https://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58) * [CFR 3.313, Claims based on service in Vietnam](https://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58) * [CFR 3.816, Awards under the Nehmer Court Orders for disability or death caused by a condition presumptively associated with herbicide exposure](https://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58) * [M21-1, Part IV, Subpart ii,1.H, Developing Claims for Service Connection (SC) Based on Herbicide Exposure](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014940/M21-1-Part-IV-Subpart-ii-Chapter-1-Section-H-Developing-Claims-for-Service-Connection-SC-Based-on-Herbicide-Exposure?articleViewContext=article_view&isFeatured=undefined&topic=undefined) * [M21-1, Part IV, Subpart ii,2.C.3, SC for Disabilities Resulting From Exposure to Certain Herbicide Agents or Based on Service in the RVN](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014556/M21-1-Part-IV-Subpart-ii-Chapter-2-Section-C-Service-Connection-SC-for-Disabilities-Resulting-From-Exposure-to-Environmental-Hazards-or-Service-in-the-Republic-of-Vietnam-RVN?articleViewContext=article_view&isFeatured=undefined&topic=undefined) * [M21-1, Part VI, 1, General Chapter 18 Benefits Information](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014960/M21-1,%20Part%20VI,%20Chapter%201%20-%20General%20Chapter%2018%20Benefits%20Information) * [M21-1, Part VI, 2.B, Eligibility and Development](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014964/M21-1-Part-VI-Chapter-2-Section-B-Eligibility-and-Development) | |

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| Topic 1: History of Herbicide Exposure | |
| Introduction | This topic will discuss the history or herbicide exposure and VA regulations regarding herbicide exposure. |
| Time Required | 0.25 hours |
| OBJECTIVES/ Teaching Points | Topic objectives:   * Explain the history of herbicide exposure |
| Herbicide Use  Slide 4  Handout 4  *Source:* The National Academy of Sciences: Veterans and Agent Orange: Health Effects of Herbicides Used in Vietnam. | Explain that herbicides were used in support of United States and allied military operations in the Republic of Vietnam during the Vietnam era. From 1962 to 1971, the U.S. Air Force sprayed an estimated 20 million gallons of herbicides in Vietnam, of which at least 11 million gallons was Agent Orange, in a military project called Operation Ranch Hand. These chemicals were defoliants that killed all vegetation, like jungles and crops. Several million gallons of defoliant were aerially sprayed over South Vietnam from 1962 to 1971. There were several different types of herbicide agents used. The most widely used herbicides were Agents Orange, Blue, and White.  The herbicides were developed primarily by Monsanto and Dow and different types include: Agent Green, Agent Pink, Agent Purple, Agent White, Agent Blue and Agent Orange. The most common were Orange, Blue, and White.  Most of the herbicides used in Vietnam contained a toxic byproduct called dioxin, which accumulates in a body’s fatty tissue, does not break down, and stays there. The long-term effects of dioxin have been extensively studied, and the VA currently recognizes several conditions as related to dioxin exposure. |
| Herbicide Legislation  Slides 5 - 7  *Handout 4-5* | VA received the first claims asserting conditions related to Agent Orange in 1977. Since then, Vietnam-era veterans have sought relief from Congress and through the judicial system. Beginning in 1979, Congress enacted several laws to determine whether exposure to herbicides in Vietnam was associated with possible long-term health effects and certain disabilities.  The Veterans’ Health Care, Training and Small Business Loan Act of 1981 gave Vietnam Veterans priority status for health care at VA facilities if a Veteran self-reported exposure to herbicides, absent evidence to the contrary.  The Veterans’ Dioxin and Radiation Exposure Compensation Standards Act of 1984 required the VA to develop regulations for disability compensation for Vietnam Veterans exposed to Agent Orange.  In 1991, the Agent Orange Act established a presumption of service connection for diseases associated with herbicide exposure. It also authorized the VA to work with the Institute of Medicine (IOM) to conduct scientific reviews of any and all evidence linking certain medical conditions to herbicide exposure. If evidence suggests that new conditions are being caused by herbicide exposure, then VA is required to update its current rules and regulations. Many conditions have been added since 1991 based on reports from the IOM.  The Veterans’ Health Care Eligibility Reform Act of 1996 completely restructured VA medical care eligibility requirements for all Veterans, to include those exposed to herbicides. Under this law, a Veteran does not have to demonstrate a link between a certain health condition and exposure to herbicides; instead, medical care is provided unless VA determines that the condition did not result from exposure to herbicides. This authority was permanently authorized by the Caregivers and Veterans Omnibus Health Services Act of 2010.  There have also been several court decisions that have affected VA rules and regulations regarding claims based on herbicide exposure. In *Nehmer* *v. United States Department of Veterans Affairs*, the court ruled that VA must grant benefits retroactively in some scenarios where the Veteran was previously denied for service-connection for a condition now considered presumptive to herbicide exposure. In some scenarios, VA used effective dates many decades in the past. In *Haas v. Shinseki*, the court ultimately decided that Veterans who only served aboard ships on the open ocean (Blue Water Veterans) were not eligible for presumption based on herbicide exposure. In *Gray v. McDonald*, the court required that the VA provide a stricter definition of Brown and Blue Water Veterans.  PL 116-23, Blue Water Vietnam Veterans Act - These changes began with the case Procopio V. Wilkie (2019), which was a case that sought to extend the presumption of herbicide exposure to those Veterans who served in the offshore waters of Vietnam. This was defined as serving in the seas of the Republic of Vietnam, or 12 nautical miles from the land mass.  Prior to the enactment of this new law, the VA extended a presumption of herbicide exposure to any Veteran who served on the ground or on the inland waterways of the Republic of Vietnam between January 9, 1962, and May 7, 1975 based upon 38 U.S.C.§ 1116(a)(1). |
| Topic 2: Evidentiary Requirements | |
| Introduction | This topic will discuss the evidence that VA needs to grant service-connection for a condition due to herbicide exposure. |
| Time Required | 0.5 hours |
| OBJECTIVES/ Teaching Points | Topic objectives:   * Identify the evidentiary requirements for herbicide exposure * Identify the presumptive conditions associated with herbicide exposure * Identify the locations where herbicide exposure occurred |
| Service-Connection Requirements  Slide 8  *Handout 6 - 7* | In order for VA to establish service connection for a condition caused by herbicide exposure, there must be:   * Element 1: medical evidence diagnosing the condition, * Element 2: evidence the in-service event (or exposure) occurred, * Element 3: an indication of association between the in-service stressor and the diagnosed condition\*   \*Stress that if the Veteran is diagnosed with one of the conditions listed in CFR 3.309(e) and was exposed to herbicides, then element 3 is satisfied. VA should not develop for medical or scientific evidence or an opinion in these scenarios. If the Veteran is claiming a condition not listed in CFR 3.309, then there must be evidence linking the condition to herbicide (dioxin) exposure.  Since it is very difficult for a lay person to describe symptoms for the conditions listed on CFR 3.309(e), the Veteran will need to provide medical evidence diagnosing the condition. |

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| Presumptive Conditions  Slides 9-10  Handout 6-7  Provide the trainees with the following regulations as you discuss each slide: CFR 3.309(e) (conditions), CFR 3.307(a)(6) (time limits), and CFR 3.313 (NHL). | The following diseases are presumptive to herbicide exposure:   * AL amyloidosis * Chloracne or other acneiform disease consistent with chloracne * Type 2 diabetes * Hodgkin's disease * Ischemic heart disease (including coronary artery disease) * All chronic B-cell leukemias * Multiple myeloma * Non-Hodgkin's lymphoma * Parkinson's disease * Early-onset peripheral neuropathy (PN) * Porphyria cutanea tarda (PCT) * Prostate cancer * Respiratory cancers * Soft-tissue sarcoma   The following diseases must have manifested at a compensable level **within one year** of the Veteran’s last exposure to herbicides:   * Chloracne or other acne-form disease consistent with chloracne * Porphyria cutanea tarda (PCT), * Early-onset peripheral neuropathy (PN)   For all other conditions, there is no time limit. |
| **Non-Hodgkin’s Lymphoma**  *Slide 11* | The Veteran must have served in specific locations to qualify for presumption. We will discuss these locations in the next portion of the training. However, VA has extended presumption for  Non-Hodgkin’s Lymphoma to any Veteran who also served in the waters off the shores of Vietnam. Non-Hodgkin’s Lymphoma is not a single disease but a grouping of lymphomas that are Non-Hodgkin’s type. For more information see M21-1, Part IV, Subpart ii, 2.C.3.o. The presumption of exposure is also extended to Veterans who have boots on the ground and from categories one through two as well. However, this presumption does not extend to anyone who served outside of Vietnam, e.g., Thailand or Korea. |
| Herbicide Exposure  *Slide 12*  *Handout 7* | The presumption of exposure to herbicides can be extended to any Veteran who, during active military, naval, or air service served in the Republic of Vietnam (RVN) during the period beginning on January 9, 1962 and ending on May 7, 1975.   * On land * On the inland waterways * Aboard vessels docked to a pier or shore (w/ land visitation) * Aboard vessels on the offshore waters (w/ land visitation)   This presumption has also been extended to certain Veterans who served on the demilitarized zone in Korea and on the perimeter of bases in Thailand. |
| Vietnam  *Slide 12*  *Handout 7-12* | If a Veteran served inside the land borders of the Republic of Vietnam between January 9, 1962, and May 7, 1975, he is presumed to have been exposed to herbicides. There is no time limit for the length of service inside the land borders of the Republic of Vietnam.  For example: A Veteran who got off a plane for a few hours while it was refueling and resupplying, is just as eligible as a Veteran who served in-country for two years.  Remember, although 38 CFR 3.2 classifies the Vietnam era as starting February 28, 1961, for those that served in-country, this is not the start date for herbicide presumption. |
| Thailand  *Slides 13-14*  *Handout 7-8*  *You can use the metaphor of a gated community. There is one outer gate surrounding the entire community and multiple interior fences surrounding individual units or areas. In this metaphor the fenced-in perimeter is the outer gate of the community.* | Compensation Service has determined that special consideration should be extended to Veterans whose duties placed them on or near the perimeters of Thailand military bases during the Vietnam Era.  M21-1, Part IV, Subpart ii, 1.H.4.b has a step-by-step chart to determine if we can concede that the Veteran was exposed to herbicides while serving in Thailand.  If the Veteran served in the Air Force on one of the Royal Thai Air Force Bases (RTAFBs), we can concede exposure to herbicides only if the Veteran’s military occupational specialty (MOS) was 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.  If the Veteran served in the Army on one of the RTAFBs in Thailand, we can concede exposure to herbicides when the Veteran provides a statement that they were involved in perimeter security duty and credible evidence supports their statement. Members of the Army did assist with base security at Air Force bases early in the war before these bases were fully operational.  If the Veteran served at an U.S. Army base in Thailand, was a member of a military police unit or had a military police occupational specialty, and provides a statement that his or her duties placed them on or near the perimeter, we can concede exposure to herbicides.  When reviewing claims involving Thailand service and herbicide exposure, the benefit of doubt rule does not apply. The employee must have credible evidence that places the Veteran on or near the perimeter on a regular basis.  The perimeter of the base is the outermost perimeter and usually consisted of a double fence line. There can be multiple fence lines and perimeters within this outermost perimeter. The Veteran’s duties must have placed him on or near the outermost perimeter and not on one of the interior fence lines. Generally, buildings, housing, or other structures were not near the outermost perimeter. The only structures usually on or near the outermost perimeter were guard posts or other security-related structures. |
| Korean DMZ  *Slides 15-16*  *Handout 8-9* | The VA has extended the presumption of exposure to herbicides to Veterans who served in specific units that operated in the Korean DMZ from April 1, 1968, to August 31, 1971. Prior to February 24, 2011, the dates for exposure were April 1968 to July 1969. This change affects all claims, even those previously denied.  The VA and the Department of Defense have come up with a list of units that were stationed on the Demilitarized Zone (DMZ) during this time frame. You can find this list at M21-1, Part IV, Subpart ii, 1.H.3.b.  For a Veteran who served in Korea to be eligible for the presumption of exposure to herbicides, they must have served in one of the units listed in the manual reference during the appropriate time frame. Pay close attention to documents in the Veteran’s personnel file and the manual reference as some units on the list could be listed under the 2nd or 7th Infantry Divisions. If the Veteran served in one of these units, they would still be eligible for presumption no matter if their service records show they served under the 2nd or the 7th Infantry Division.  If the Veteran alleges service on the Korean DMZ outside of the appropriate time frame and/or the unit they served with is not on the list and they provide us with enough information (namely a two-month time frame as the Veteran would have already stated he served on the DMZ and the unit would be of record), the claim must be routed to your station’s VA Records Research Center (RRC) representative for further research. |
| Other Scenarios  *Slides 17- 19*  *Handout 9-10*  *When reviewing claims for C-123s and spina bifida, only claims involving herbicide exposure (to include all conditions claimed even those not related to herbicide exposure) should be forwarded to the receiving office. Any claim for another benefit, e.g., dependency, should remain at the transmitting office.* | There are three special scenarios where the VA has established the presumption of exposure to herbicides that do not fall into one of the categories above. Only processed at the Centralized Regional Offices  The first scenario is exposure to herbicides based on service on Johnston Island. Johnston Island is a coral atoll in the Pacific Ocean that was used as a storage location for drums (barrels) of herbicides from April 1972 to September 1977. During routine inspections, leakage was discovered in some of the drums. Due to the composition of the island, the herbicide did not disperse and contaminated the ground in the area. After much testing, it was determined that any risk of exposure was minimal. Also, most personnel that were involved with any activity involving the stored herbicides were military contractors. More information on herbicide exposure at Johnston Island can be found in the fact sheet located at M21-1, Part IV, Subpart ii, 1.H.5.a-b. Although it seems based on the information provided that exposure to herbicides would not have occurred, the VA has extended the presumption of exposure on a facts-found basis. This means if you have credible supporting evidence that directly places the Veteran in contact with the stored herbicides, presumption of exposure to herbicides can be established.  The second scenario is exposure to herbicides through contaminated C-123 aircraft. The C-123 was the aircraft used to disperse herbicides throughout Vietnam as part of Operation Ranch Hand. The VA has extended presumption of exposure to select individuals who came into contact with the aircraft used as a part of Operation Ranch Hand. If a Veteran alleges coming into contact with a contaminated C-123, the claim should be forwarded to the St. Paul Regional Office. St. Paul has exclusive jurisdiction to make service-connection determinations for these claims.  The third scenario is exposure to herbicides causing spina bifida or other birth defects in the biological children of Veterans who served in Vietnam or Korea during the Vietnam Conflict era (Chapter 18 claims). These claims are made by the children themselves. If a claim is received from a claimant alleging spina bifida or other birth defect due to their parent’s herbicide exposure, the claim should be forwarded to the Denver Regional Office. Denver has exclusive jurisdiction to make determinations for these claims. VA Form 21-0304, *Application for Benefits for Qualifying Veteran’s Child Born with Disabilities* is the application used to apply for these benefits.  Occasionally, a Veteran will submit a claim alleging herbicide exposure outside of the locations and scenarios mentioned above. These locations and scenarios could range from exposure in Guam or Florida to handling the herbicide contaminated clothes of the deceased at a military mortuary facility. Anytime one of these claims is received, further development may be needed and the steps in M21-1, Part IV, Subpart ii, 1.H.6.a should be followed.  If sufficient information has been received to perform research (sixty-day time frame, location, unit assigned, and a brief description of the exposure event(s)), an email should be sent to the Agent Orange mailbox. This address can be found in the manual reference above. If the exposure is verified by the Agent Orange mailbox, a review should be completed to determine if an exam is necessary. If a negative response is received from the Agent Orange mailbox and we have enough information to submit the exposure event to RRC for further research, the claim should be forwarded to your station’s RRC representative. |

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| Topic 3: Exposure Verification | |
| Introduction | This topic will discuss how to verify herbicide exposure. |
| Time Required | 0.5 hours |
| OBJECTIVES/ Teaching Points | Topic objectives:   * Verify herbicide exposure |
| In-Service Event  Slides 20-22  Handout 11-12 | When there is in-service evidence of herbicide exposure and current evidence of one of the conditions listed in 38 CFR 3.309(e), a presumption exists that the condition is related to herbicide exposure and the Veteran’s service. This presumption removes the need for a nexus between the in-service event (in this case exposure) and the current diagnosed condition. Therefore, if the Veteran is eligible, service-connection is granted. The key point in the claims process for herbicides claims is the verification of the Veteran’s herbicide exposure.  Primary evidence is generally considered the most reliable source for corroborating herbicide exposure and should be carefully reviewed when corroboration is required. It is typically obtained from the National Archives and Records Administration (NARA) or Department of Defense (DoD) entities, such as service departments or the VA Records Research Center (RRC) and the Marine Corps Archives and Special Collections (MSASC).  Personal primary evidence includes:   * Service personnel records (including DD214s) and pay records * Military occupation evidence * Hazard pay records * Military performance reports * Service Treatment Records (STRS)   Unit primary evidence includes:   * Unit and organizational histories * Daily staff journals * Operational reports-lessons learned (ORLLs) * After action reports (AARs) * Radio logs, deck logs, and ship histories * Muster rolls * Command chronologies and war diaries, * Monthly summaries and morning reports   ***Be careful when using unit evidence to verify personal exposure to herbicides. Confirm that the Veteran served in that unit during that time frame and in the general vicinity of the unit.***  Review the following secondary sources of evidence critically and carefully for information confirming service in one of previously mentioned areas:   * Buddy statements, * Contemporaneous letters and diaries, and * Newspaper archives   ***Important to discuss with the trainees***: Receipt of the Vietnam Service Medal, Vietnam Campaign Medal, Armed Forces Expeditionary Medal and/or the Vietnam Cross of Gallantry is ***not*** acceptable proof of RVN service for proving herbicide exposure ([M21-1 IV.ii.2.C.3.q.](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014556/M21-1-Part-IV-Subpart-ii-Chapter-2-Section-C-Service-Connection-SC-for-Disabilities-Resulting-From-Exposure-to-Environmental-Hazards-or-Service-in-the-Republic-of-Vietnam-RVN#3) Overview of Historical RVN Nautical Policies). |
| **Verifying Exposure**  *Slide 23* | Evidence of in-country service is generally found on the DD Form 214 or in the personnel file; however, other evidentiary sources may be utilized like STRs, award citations, or personal correspondence. For a list of Vietnam APOs, go to Rating Job Aids>Stressor Verification Site> General Information>General 1942-2002 APO-FPO Files.  Discuss the use of APO numbers as evidence of Vietnam service.    Although we generally use the information on the [Stressor Verification](http://vbaw.vba.va.gov/bl/21/rating/stressor/general.htm) Site for PTSD claims, the information can also be helpful when trying to verify exposure.  Records for Army and Marines Veterans generally contain very specific information on when and where they served. The records for Air Force Veterans are very clear on when and where they served, however, these Veterans often took flights into Vietnam, even when they served in other locations like Thailand, Okinawa, etc. The most difficult scenario usually involves Naval and Coast Guard Veterans. Their service records for these Veterans do not always indicate a land-based service location. Be on the lookout for the following types of service:   * Service at a Naval Base * With a Seabee unit * As a Corpsmen, or * Service on river and coastal patrol crafts   In cases where verification of Vietnam service is difficult, you may have to think outside the box. For example, we were once able to concede  in-country Vietnam service (and thus herbicide exposure) for a Navy Veteran because he submitted his old military driver’s license (for use in Vietnam). |
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| Topic 4: Development | |
| Introduction | This topic will discuss herbicide development actions. |
| Time Required | 0.25 hours |
| OBJECTIVES/ Teaching Points | Topic objectives:   * Develop for necessary evidence |
| Herbicide Development  Slides 24-29  Handout 13-14  *Tell the trainees that we will discuss the VBMS Core development paragraphs in more detail during the VBMS Core demo.* | Remember, a claim for herbicide exposure is no different than a claim for any other condition in that there are four general categories of development:   * Veteran * Federal Records * Private Medical Records * Exam   Even if VA can verify herbicide exposure, development for STRs, private medical records, and any other relevant records is still required.  Development - Veteran  Our duty to assist for herbicide exposure claims is not satisfied by the VA Form 21-526 EZ or a standard 5103 letter if:   * The Veteran did not identify where and how they were exposed to herbicides * The Veteran claimed a condition other than those listed in  38 CFR 3.309(e), or if * The Veteran did not claim a condition but only “herbicide exposure”   The VSR will need to send a subsequent development letter requesting that the Veteran provide us details about his exposure to Agent Orange. This development can be undertaken over the phone. Remind the trainees that this development does not exclude the Veteran from the FDC program.  Generally, this development is accomplished by using one of the VBMS Core A/O paragraphs.  Do not develop to the Veteran   * If exposure can be verified based on the evidence of record, * The Veteran has already provided this information * VA has already requested this information   In herbicide-related claims, if the claimed disability is not recognized as a presumptive condition under 38 CFR 3.309(e), the claimant fails to provide specifics of how or where exposure occurred or alleges service in RVN but service records do not show RVN service, then development to the claimant must be completed.  Per [M21-1 IV.ii.1.H.1.i](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014940/M21-1-Part-IV-Subpart-ii-Chapter-1-Section-H-Developing-Claims-for-Service-Connection-SC-Based-on-Herbicide-Exposure), 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 they must identify a specific disability, since exposure in and of itself is not a disability. Treat it as an incomplete application and follow the steps in [M21-1, Part I, 1.B.1.h.](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014065/M21-1-Part-I-Chapter-1-Section-B-Duty-to-Notify-Under-38-USC-5102-and-5103)    Development – Federal Records  Development for STRs and the personnel file will be accomplished through the appropriate system based on the Veteran’s service:   * PIES (STRs and the personnel file) * RMC (STRs) * DPRIS * HAIMS   If the claim is being processed in VBMS Core, all PIES requests for the personnel record should be accomplished using the O50 request code.  Development – Other Medical Records  Request hospital reports and clinical records if the Veteran indicates pertinent treatment in a Department of Veterans Affairs (VA) facility, Vet Center, or elsewhere.  Vet Center and Private Medical Records require a VA Form  21-4142, Authorization to Disclose Information to the Department of Veterans Affairs and 21-4142a, General Release for Medical Provider Information to the Department of Veterans Affairs. This development would also exclude the Veteran from the FDC process.  Development – Exams  Request an examination if:   * There is credible supporting evidence that the Veteran was exposed to herbicides * Evidence indicates the Veteran is diagnosed with one of the conditions in 38 CFR 3.309(e) * Medical evidence adequate for rating purposes is not already of record   Explain to the trainees that herbicide exposure claims will be routed to, and processed at 8 designated regional offices, once all applicable records are received:   * St. Louis * Cleveland * Waco * St. Paul (VSC/PMC) * Roanoke * St. Petersburg * Phoenix * Salt Lake City   Per M21-1 IV.ii.1.H.1.e., both the *Agent Orange-Vietnam* corporate flash and *Blue Water Agent Orange* special issue flash must be applied to herbicide exposure claims, once the claimed disability is determined to be eligible for presumption under 38 CFR 3.309(e). Once these flashes are applied, the claim will be routed to a centralized processing team by National Work Queue (NWQ). |

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| Demo eCase | |
| Introduction | Please demo the Herbicide VBMS Core Demo eCase. Refer to the C&P VSR VIP SharePoint for further details. |
| Time Required | 1 hour |

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| Lesson Review, Assessment, and Wrap-up | |
| Introduction | The (VSR VIP Pre-D) Herbicide Exposure Claims lesson is complete.  Review each lesson objective and ask the trainees for any questions or comments. |
| Time Required | 0.25 hours |
| Lesson Objectives | Now that this training is complete, the trainee should be able to:   * understand the history of herbicide claims processing * identify the types of Vietnam service * establish the required special issue * develop for necessary evidence * identify the presumptive conditions associated with herbicide exposure * complete steps required to route the claim to the Centralized Processing Regional Offices |
| Assessment | The eCases will allow the participants to demonstrate their understanding of the information presented in this lesson. |