

38 CFR 3.309 Agent Orange Presumptive Conditions

Currently there are fourteen presumptive conditions associated with Agent Orange exposure as outlined in 38 CFR 3.309 (e). (List is attached)

If a veteran was exposed to an herbicide agent during active military, naval, or air service, the following diseases shall be service-connected if the requirements of § 3.307(a)(6) are met even though there is no record of such disease during service, provided further that the rebuttable presumption provisions of § 3.307(d) are also satisfied.

It is important to note that many of the conditions have multiple forms of nexus such as but not limited to:

- Diabetes → Peripheral neuropathy → Ischemic heart disease
- Any of the cancers listed → Peripheral neuropathy

Soft-tissue sarcoma for example has twenty-three forms of associated cancer that is considered presumptive. (List is attached) However, osteosarcoma, chondrosarcoma, Kaposi's sarcoma, or mesothelioma is excluded due to being either inherited or genetic based on chromosomal abnormalities.

Lastly, the term ischemic heart disease does not include hypertension or peripheral manifestations of arteriosclerosis such as peripheral vascular disease or stroke, or any other condition that does not qualify within the generally accepted medical definition of Ischemic heart disease.

If a Veteran believes they have a disease caused by herbicide exposure, but that disease is not on the list of diseases associated with Agent Orange, the Veteran may still apply for service-connection. In these cases, VA requires all of the following:

- Competent medical evidence of a current disability,
- Competent medical evidence of an actual connection between herbicide exposure and the current disability, AND
- Competent evidence of:
 - service in Vietnam or at or near the Korean demilitarized zone during the dates shown above, or
 - exposure to herbicides in a location other than Vietnam or the Korean demilitarized zone.

These cases can be won on a case by case basis with the appropriate medical evidence.



Fourteen Presumptive Conditions Associated with Agent Orange Exposure:

1. AL amyloidosis
2. Chloracne or other acneform disease consistent with chloracne
3. Type 2 diabetes (also known as Type II diabetes mellitus or adult-onset diabetes)
4. Hodgkin's disease
5. Ischemic heart disease (including, but not limited to, acute, subacute, and old myocardial infarction; atherosclerotic cardiovascular disease including coronary artery disease (including coronary spasm) and coronary bypass surgery; and stable, unstable and Prinzmetal's angina)
6. All chronic B-cell leukemias (including, but not limited to, hairy-cell leukemia and chronic lymphocytic leukemia)
7. Multiple myeloma
8. Non-Hodgkin's lymphoma
9. Parkinson's disease
10. Early-onset peripheral neuropathy
11. Porphyria cutanea tarda
12. Prostate cancer
13. Respiratory cancers (cancer of the lung, bronchus, larynx, or trachea)
14. Soft-tissue sarcoma (other than osteosarcoma, chondrosarcoma, Kaposi's sarcoma, or mesothelioma)

The term "soft-tissue sarcoma" includes the following:

1. Adult fibrosarcoma
2. Dermatofibrosarcoma protuberans
3. Malignant fibrous histiocytoma
4. Liposarcoma
5. Leiomyosarcoma
6. Epithelioid leiomyosarcoma (malignant leiomyoblastoma)
7. Rhabdomyosarcoma
8. Ectomesenchymoma
9. Angiosarcoma (hemangiosarcoma and lymphangiosarcoma)
10. Proliferating (systemic) angioendotheliomatosis
11. Malignant glomus tumor
12. Malignant hemangiopericytoma
13. Synovial sarcoma (malignant synovioma)
14. Malignant giant cell tumor of tendon sheath
15. Malignant schwannoma, including malignant schwannoma with rhabdomyoblastic differentiation (malignant Triton tumor), glandular and epithelioid malignant schwannomas
16. Malignant mesenchymoma
17. Malignant granular cell tumor
18. Alveolar soft part sarcoma
19. Epithelioid sarcoma
20. Clear cell sarcoma of tendons and aponeuroses
21. Extraskelatal Ewing's sarcoma
22. Congenital and infantile fibrosarcoma
23. Malignant ganglioneuroma