

# Chemical Exposure

Presented by the Commission Staff

14 September 2006

# PCB Exposure

## Fort McClellan, Alabama

- PCBs: chemicals harmful to humans and the environment.
- Solutia plant in Anniston produced PCBs from 1935 until 1971.
- Pollution well above EPA guidelines in Anniston.
- 1996 Class action law suit against the company.

# Fort McClellan, EPA, CDC and ATSDR

## ■ Clean up activities:

- Army: clean up thru 2009.
- Solutia: Performing study/clean-up and funding special education needs.

## ■ Studies:

- ATSDR completed study in 2000.
- Anniston/Calhoun Research Consortium – study.

# Department of Defense

- “There is little or no environmental contamination at Ft. McClellan that may have exposed military personnel to PCBs”
- The only service members that could have possibly been exposed were those who resided in the town of Anniston itself.
- DoD did not state if it contacted personnel who served at Ft. McClellan to alert them to possible PCB exposure.

## Conclusions

- Possible that service members at Fort McClellan from 1935 – 1971 came into contact with PCBs
- Difficult to estimate how many, if any, were actually exposed.
- Full extent of PCB contamination is not known.
- Completion of studies needed to understand the full amount and affects of pollution.

# Options

1. Refer issue to VA.
2. VA monitor ongoing studies and decide whether a presumption is warranted.
3. Recommend VA/DoD create registry of those who served at Ft. McClellan.
4. Commission contract with IOM to conduct an analysis of PCB exposure as a possible presumption.

# TCE/PCE Exposure

## Camp Lejeune, North Carolina

- TCE/PCE: Two Volatile Organic Chemicals (VOC) used as degreasers and dry-cleaning agents
- 1980-'82: Water testing revealed TCE/PCE contamination in several Camp Lejeune ground wells
- 1984-'85: Ten ground wells closed due to contamination

# Scientific Studies

- 1997: ATSDR study finds no evidence of contamination severe enough to affect adults
  - Contamination may be severe enough to affect fetuses
- 1998: Second study finds that women with “at-risk” pregnancies more likely to miscarry if exposed to VOCs than if not exposed
- Third study finds that 103 of 12,598 children exposed to VOCs at Camp Lejeune born with birth defects



# Recent Action

- Current ATSDR study examining 103 reported birth defects reported in last slide
  - Study will determine connection between birth defects and VOC exposure
  - Study to be released late 2006
- 2007 Defense Authorization Bill calls for National Academy of Sciences review of situation
  - Study to be completed with 20 months of bill's passing

# Conclusion

- Service Members stationed at Camp Lejeune prior to 1984-'85 likely to have been exposed to VOCs
- Current scientific evidence indicates contamination did not affect adults; effect on fetuses unknown
- Future action contingent upon results of currently ongoing studies

# Presumptive Herbicide Exposure for Blue Water Navy Veterans

- Blue Water veterans: Veterans who served in waters off the Vietnamese shore, who did not necessarily set foot in Vietnam
- Vietnam veterans who served during the “Vietnam Era” are presumed to have been exposed to herbicides during service
- If such a veteran develops herbicide-related illnesses or disabilities, they are presumptively service-connected

# Legislative Overview

- **38 U.S.C. § 1116(f)**- Grants presumptive herbicide exposure to veterans who “served in the Republic of Vietnam”
- **38 C.F.R. § 3.307(a)(6)(iii)**- Requires that the veteran step foot on Vietnamese soil to qualify for presumptive herbicide exposure
- **38 C.F.R. § 3.313**- Grants presumptive service-connection for non-Hodgkin's Lymphoma to Vietnam veterans, including Blue Water, without reference to herbicide<sup>12</sup>

# Reasons for Denying Herbicide Presumption to Blue Water Veterans

- In 1997, VA General Counsel released VAOPGCPREC 27-97 denying presumptive herbicide exposure to Blue Water veterans
- Initial legislation does not specifically address Blue Water, and Congressional intent is unclear
- Congressional testimony implies that Congress intended to grant presumption only to veterans serving “within the borders of Vietnam”

# Recent Ruling

## *Haas v. Nicholson, 2006*

- Recent decision by U.S. Court of Appeals for Veterans' Claims
- Declares previous VA regulations denying presumption to Blue Water veterans invalid and unfair
- Grants presumptive herbicide exposure to any veteran who earned the Vietnam Service Medal (VSM), including Blue Water veterans



# Conclusion

- Legislation initially granted presumption to Blue Water veterans
- 1997: VA General Counsel denies presumption to Blue Water veterans, regulations subsequently altered accordingly
- 2006 Court ruling reverts to pre-1997 condition, granting presumption to all recipients of VSM, including Blue Water