

## VA Delay May Stall Benefits for Vietnam vets

By Kelly Kennedy - Staff writer

Posted : Tuesday Mar 2, 2010 9:40:58 EST

Three veterans groups have threatened the Veterans Affairs Department with a lawsuit if VA does not publish regulations by March 12 about three Agent Orange-related diseases that the Institute of Medicine has deemed should be presumed connected to military service.

Every two years, the IoM reviews scientific evidence to determine if diseases could have been caused by dioxin, the harmful ingredient in Agent Orange. Agent Orange is an herbicide widely used during the Vietnam War to clear forests.

In its latest review, IoM found that ischemic heart disease, Parkinson's disease and B-cell leukemias all could be linked to Agent Orange exposure. VA is required by the Agent Orange Act of 1991 to publish a regulation, making veterans eligible for benefits, within 210 days of such findings. In this case, that would have been Feb. 19. VA doesn't have to pay out benefits until after the regulation is actually published.

The American Legion, Military Order of the Purple Heart, and the National Veterans Legal Services Program sent a letter to VA on Monday demanding that the organization publish the regulation by March 12. "VA Secretary [Eric] Shinseki in September agreed to add the three diseases," said Barton Stichman, joint executive director of the National Veterans Legal Services Program. "But his agency has let him down on paying anyone their benefits."

A VA official said the agency is working to make sure the regulation goes through correctly — and therefore causes no more delays — after severe snow storms in Washington, D.C., shut down the federal government for almost a full week in early February. The official added that veterans could get benefits retroactively, based on a lawsuit filed in 1984.

Ian de Planque, the American Legion's assistant director for veterans affairs and rehabilitation, said the need to get the regulation right could delay veterans' benefits until at least late summer. The regulation must be published in the Federal Register, and then go through a public comment period, before veterans can receive any benefits.

There has been some debate about the inclusion of ischemic heart disease for presumption of service connection. The science shows that people exposed to dioxin have higher rates of heart disease. However, ischemic heart disease is the number one cause of death in Western countries, and has also been connected to diet and exercise.

"Shinseki's already made the decision," Stichman said of the possibility that discussion over that issue might contribute to the delay in publishing the new regulations, "so that shouldn't matter."

De Planque said as many as 200,000 veterans may seek benefits just for heart disease, which could add to the already considerable backlog of VA benefits claims and cause further delays. De Planque recommended that veterans file claims as soon as possible, and not wait for the regulation to come out. "We still don't know how broadly or narrowly ischemic heart disease is going to be defined," de Planque said. "There's going to be a lot of people affected."

Stichman said VA hasn't been late with filing an Agent Orange regulation since 1991, when service connection for diabetes was delayed. He said veterans won a court case at the time that awarded retroactive benefits in that instance.