

THE AMERICAN LEGION, DEPARTMENT OF MICHIGAN

RESOLUTION: **C-16-9**

SUBMITTED BY: Department of Michigan

SUBJECT: **Agent Orange**

WHEREAS, Agent Orange was the most common herbicide used in Southeast Asia by the U.S. Armed Forces during the Vietnam War from 1962-1971; and

WHEREAS, Agent Orange was contaminated by the carcinogen dioxin (2, 3, 7, 8-tetrachlorodibenzo-*para*-dioxin (TCDD)); and

WHEREAS, Over two (2) million veterans served in Vietnam during the Vietnam War and are presumed to have been exposed to Agent Orange; and

WHEREAS, Scientific evidence has linked human exposure to dioxin and certain diseases; and

WHEREAS, A significant number of Vietnam veterans have developed various cancers, neurological disorders, liver dysfunction and other severe diseases; and

WHEREAS, The American Legion supported Public Law 96-151 (1979), which mandates that the Department of Veteran Affairs (VA) conduct a major epidemiological study of Vietnam veterans who were exposed to dioxin, unless it is determined to be unfeasible; and

WHEREAS, VA was congressionally mandated by Public Law 102-4 (1991) to contract with the National Academy of Sciences (NAS) to review existing peer-reviewed research on herbicides, to include their components, exposure and medical evidence on related health effects; and

WHEREAS, A committee convened by the Institute of Medicine (IOM) of the National Academies to study the health effects of herbicide exposure had little information about the exposures the Vietnam veterans encountered and recommended in its 1994 biennial report that VA, upon discovering the feasibility of a valid exposure reconstruction model, facilitate epidemiological studies; and

- WHEREAS, The Secretary of VA, in response to the recommendation, requested that IOM convene a separate committee to oversee development and evaluation of herbicide exposure models for use in studies of Vietnam veterans; and
- WHEREAS, The IOM committee determined, in 2003, that a model created by researchers from Columbia University's Mailman School of Public Health demonstrated the feasibility of a valid exposure-reconstruction model of Vietnam veterans' herbicide exposure and recommended that VA and other governmental agencies promote more epidemiological studies of veterans by non-governmental groups and independent researchers; and
- WHEREAS, The Department of Veterans Affairs has still not funded the major epidemiology study mandated by public law; and
- WHEREAS, In view of the current absence of alternative judicial recourse to remedy the injustice perpetuated on so many disabled Vietnam veterans, their families and survivors, The American Legion will continue to monitor other pending dioxin-related suits; and
- WHEREAS, Information has been released by the Department of the Defense on numerous locations other than Vietnam where the herbicide was tested, sprayed, and stored, including: testing at Fort Drum, New York, in 1959; spraying in the Panama Canal Zone in the 1960s and 1970s and in the Korean Demilitarized Zone (DMZ) in 1968-69; and the storage of unused herbicide on Johnston Atoll in the Pacific from 1972-78; and
- WHEREAS, VA has recently identified more units that were exposed to herbicide at the Korean DMZ; and
- WHEREAS, Title 38, United States Code, section 1116 and title 38, Code of Federal Regulations, section 3.309, set forth certain presumptions that apply to claims for service connection based on herbicide exposure by veterans who served in the Republic of Vietnam during the period January 9, 1962, and May 7, 1975; and
- WHEREAS, Veterans who served in other locations during these periods who may have been exposed to the herbicide and who may have developed one of the recognized Agent Orange-related diseases, set forth in title 38, United States Code, section 1116 and title 38, Code of Federal Regulations, section 3.309, are not entitled to presumptive service connection for their disability, rather they must meet the more stringent requirements for direct service connection; and

- WHEREAS, This inequity was not contemplated at the time of the enactment of Public Law 102-4, the Agent Orange Act of 1991, as amended, due to limited available information on the full extent of the United States' Agent Orange testing, spraying, and storage activities; and
- WHEREAS, Under title 38, United States Code, Chapter 18, benefits are payable to children of veterans that served in the Republic of Vietnam during the period January 9, 1962, to May 7, 1975, and who suffer from the birth defect spina bifida; and
- WHEREAS, Recent legislation has extended the spina bifida benefits to include the children of veterans who served in or near the Korean Demilitarized Zone during the period of September 1, 1967, and August 31, 1971, and determined by the Secretary of Veterans Affairs to have been exposed to herbicides during such service; and
- WHEREAS, The children of veterans who served in locations other than Vietnam and Korea who were possibly exposed to Agent Orange would be denied entitlement to compensation for spina bifida under the current statute and regulations; now, therefore, be it
- RESOLVED, By The American Legion, Department of Michigan, in annual Department Convention, assembled in Sault Ste Marie, Michigan, June 24-26, 2016, That The American Legion continue to urge the completion of the scientific study mandated by Public Law 96-151; and, be it further
- RESOLVED, The American Legion vigorously support the liberalization of the rules relating to the evaluation of studies involving exposure to dioxin and the adjudication of claims based on Agent Orange exposure; and, be it further
- RESOLVED, That The American Legion continue to closely monitor the development of all ongoing research on the long-term effects of Agent Orange exposure and point out to the proper officials any perceived deficiencies or discrepancies in these projects; and to ensure that government committees charged with review of such research are composed of impartial members of the medical and scientific community; and, be it further
- RESOLVED, That veterans reporting to Department of Veteran Affairs (VA) medical care facilities claiming exposure to Agent Orange be provided examinations and treatment which are thorough and appropriate, and that VA physicians

demonstrate compassion in responding to the medical needs of these veterans; and, be it further

RESOLVED, That The American Legion seek legislation to amend title 38, United States Code, section 1116, to provide entitlement to these presumptions for those veterans who were exposed to Agent Orange while serving in areas other than the Republic of Vietnam where Agent Orange was tested, sprayed, or stored; and, be it finally

RESOLVED, That The American Legion seek legislation to amend title 38, United States Code, Chapter 18, to provide entitlement to spina bifida benefits for the child or children of any veteran who was exposed to Agent Orange as the result of service in the Republic of Vietnam or in other locations where Agent Orange was tested, sprayed, or stored.