

1 IAN GERSHENGORN
 Deputy Assistant Attorney General
 2 MELINDA L. HAAG
 United States Attorney
 3 VINCENT M. GARVEY
 Deputy Branch Director
 4 JOSHUA E. GARDNER
 District of Columbia Bar No. 478049
 5 KIMBERLY L. HERB
 Illinois Bar No. 6296725
 6 LILY SARA FAREL
 North Carolina Bar No. 35273
 7 BRIGHAM JOHN BOWEN
 District of Columbia Bar No. 981555
 8 JUDSON O. LITTLETON
 Texas Bar No. 24065635
 Trial Attorneys
 9 Civil Division, Federal Programs Branch
 U.S. Department of Justice
 10 P.O. Box 883
 Washington, D.C. 20044
 11 Telephone: (202) 305-7583
 Facsimile: (202) 616-8202
 12 E-mail: joshua.e.gardner@usdoj.gov

13 Attorneys for DEFENDANTS

14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA
 16 OAKLAND DIVISION

17 VIETNAM VETERANS OF AMERICA, *et al.*,
 18 Plaintiffs,
 19 v.
 20 CENTRAL INTELLIGENCE AGENCY, *et al.*,
 21 Defendants.
 22

Case No. CV 09-0037-CW

**DEFENDANT DEPARTMENT OF
 VETERANS AFFAIRS' RESPONSE
 TO QUESTIONS POSED IN THE
 COURT'S JULY 19, 2012 ORDER
 AND MOTION FOR
 CLARIFICATION OF CERTAIN
 ASPECTS OF THAT ORDER**

1 Defendant Department of Veterans Affairs (“VA”) hereby responds to the Court’s inquiry
2 regarding the mustard gas white paper identified in the July 19, 2012 Order, dkt. 469, as well as
3 respectfully seeks clarification regarding certain documents discussed in that Order.

4 **I. VA’s Response To The Court’s Inquiries Regarding the Mustard Gas White**
5 **Paper**

6 The Court stated in its July 19, 2012 Order that “[t]he Court is not aware of a mustard gas
7 white paper and the binder of final documents submitted to the Court does not contain such a
8 document. To the extent there is no final version of the white paper, the Court finds that
9 Plaintiffs have a substantial need for the following draft documents, which are largely factual. If
10 Defendant has the final version of the mustard gas white paper, Defendant shall submit it to the
11 Court.” Dkt. 469 at 7.

12 The documents identified by the Court (DVA097 0357-0368, DVA097 0404-0410,
13 DVA097 0426-0428, and DVA097 0411-0412) ultimately formed much of the basis for the
14 January 13, 2005 document entitled “Department of Veterans Affairs Mustard Gas Participant
15 Notification Act Plan,” which was previously produced to Plaintiffs with the Bates label VVA-
16 VA 031605-31634. *See* Declaration of Joseph Salvatore, at ¶¶ 4-5. This final version of the
17 Notification Action Plan is attached as Exhibit A to this Response. VA will await the Court’s
18 decision concerning whether to produce the draft documents identified on VA’s privilege log in
19 light of the identification of the Notification Action Plan.¹

20 **II. VA’s Request for Clarification Regarding Certain Documents**

21 VA also respectfully seeks clarification regarding three documents identified in the
22 Court’s July 19, 2012 Order concerning VA’s assertion of the deliberative process privilege.

23 First, in that Order the Court compelled the production of DVA090 0472-0475, which the
24 Court described as a “document [that] is dated March 7, 2007 and is purportedly predecisional of
25 a document dated June 30, 2006.” *Id.* at 4. However, for at least two reasons, it appears that the
26 Court meant to refer to the document Bates labeled DVA097 0472-0475. As an initial matter, the

27 ¹ On July 24, 2012, Defendants filed objections to this Court’s July 19, 2012 Order with the
28 District Court. Dkt. 471. Because the District Court has not yet ruled on this motion, however,
Defendants have filed the instant motion.

1 document the Court identified as DVA090 0472-0475 are pages of a larger document that was
2 identified on VA's privilege log, as DVA090 0469-0479. The Court did not order the production
3 of the complete document. In addition, DVA090 0472-0475 is not dated March 7, 2007.
4 However, DVA097 0472-0475 is dated March 7, 2007. Accordingly, it appears that the Court
5 intended to order the production of DVA097 0472-0475 rather than the production of DVA090
6 0472-0475, and VA respectfully seeks clarification regarding this aspect of the Court's Order.

7 Second, the Court ordered the production of DVA090 0369-0379. Dkt. 469 at 5.
8 However, this is actually three separate documents, and VA only identified – as separate
9 documents on its privilege log -- DVA090 0369-0370 and DVA 0373-0379. In fact, VA had
10 previously produced DVA090 0371-0372 because VA did not believe that document was
11 privileged. In addition, earlier in the Court's Order, the Court compelled the production of
12 DVA090 0369-0370. Dkt. 469 at 5. Accordingly, VA respectfully seeks clarification concerning
13 whether the Court intended to order the production of DVA090 0373-0379.

14 Finally, the Court ordered the production of DVA097 0260-0273, which is a draft of the
15 final version of the Notification Act Plan discussed above (*see* Bates VVA-VA 031605-31634).
16 Dkt. 469 at 6. Given that Plaintiffs have a copy of the final version of the Notification Action
17 Plan, VA respectfully seeks clarification as to whether it must also produce the draft of this
18 document identified as DVA097 0260-0273.

19 Dated: July 26, 2012

Respectfully submitted,

20 IAN GERSHENGORN
21 Deputy Assistant Attorney General
22 MELINDA L. HAAG
23 United States Attorney
24 VINCENT M. GARVEY
25 Deputy Branch Director

26 /s/ Joshua E. Gardner
27 JOSHUA E. GARDNER
28 KIMBERLY L. HERB
LILY SARA FAREL
BRIGHAM JOHN BOWEN
JUDSON O. LITTLETON
Trial Attorneys

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

U.S. Department of Justice
Civil Division, Federal Programs Branch
P.O. Box 883
Washington, D.C. 20044
Telephone: (202) 305-7583
Facsimile: (202) 616-8470
E-mail: Joshua.E.Gardner@usdoj.gov

Attorneys for Defendants

Exhibit A

(Note, full document follows this exec. Summary. Beth)

EXECUTIVE MUSTARD GAS ACTION PLAN JANUARY 13, 2004

During World War II, an estimated 60,000 servicemembers participated in chemical tests involving a variety of mustard agents, including mustard gas.

Of this 60,000 servicemen population, an estimated 4,000 servicemen participated in tests that involved the use of significant concentrations of mustard gas either in chambers or field exercises. An estimated 56,000 servicemen were subjected to mild exposures of mustard agents via patch tests. All participants swore to keep their participation secret.

Outlined below are major action items that are detailed in the Department of Veterans Affairs' (VA's) Mustard Gas Participant Notification Action Plan. A brief statistical summary of Department of Defense's (DoD's) database is included.

MAJOR ACTION ITEMS

December 2004

- Obtained DoD's mustard gas database on December 15, 2004

January 2005

- Populate new VA/DoD mustard gas database with VA data via internal data matches (VBA databases—BIRLS, C&P Master Record, SIRS, VITAL; VHA databases—VISTA, Patient Treatment Files, HEC Enrollment database; NCA databases—Burial Operations Support System, Automated Monument Application System; Office of Policy, Planning and Preparedness databases)
- Conduct external data matches with other federal agencies (e.g. Social Security; Internal Revenue Service; National Personnel Records Center in St. Louis; possibly the Credit Bureau)
- Establish separate veteran and surviving spouse databases for specialized activities (similar data matches)
- Create notification letters for veterans and surviving spouses
- Brief internal VA organizations and external stakeholders

February 2005

004483

VVA-VA 031605

- Conduct public relations campaign, including the release of a revised VA Mustard Gas Fact Sheet
- Enhance VA's Special Issues Help Line phone tree and train Help Line telephone representatives
- Release revised claims processing procedures to field stations
- Issue notification letters
- Commence centralized claims processing at the Muskogee VA Regional Office

March 2005

- Conduct mystery calls to the Special Issues Help Line to gauge the effectiveness and accuracy of initial training
- Prepare monthly claims tracking reports

DoD DATABASE

Total Population: 7,051 individuals (6,374 servicemembers and 677 civilians)

Exposure Dates: 1933 to 1987 (most during World War II)

Locations:

- Continental United States: Alabama, Colorado, Florida, Illinois, Maryland, New York, Utah, and Washington, DC)
- San Jose Island, Panama
- Ondal, India

Verified Participants: Approximately 1,800 veterans and several civilians

*Compensation and Pension Service (212)
January 13, 2005*

2

004184

VVA-VA 031606

VET007_001813

VVA-VA 031606

Prepared by Joe Salvatore
Compensation and Pension Service, Procedures Staff (212)

Compensation and Pension Service (212)
January 13, 2005

3

004485
VVA-VA 031607

VET007_001814

VVA-VA 031607

**DEPARTMENT OF VETERANS AFFAIRS
MUSTARD GAS PARTICIPANT
NOTIFICATION ACTION PLAN**



**COMPENSATION AND PENSION SERVICE
JANUARY 13, 2005**

*Compensation and Pension Service (212)
January 13, 2005*

034406

VVA-VA 031608

VET007_001815

VVA-VA 031608

TABLE OF CONTENTS

SECTION I: BACKGROUND

- PART A: ESTIMATED MUSTARD GAS POPULATION (page 4)
- PART B: DETROIT FREE PRESS' MUSTARD GAS ARTICLES (page 4)
- PART C: NOTED DEPARTMENT OF VETERANS AFFAIRS MUSTARD GAS OUTREACH SINCE 1990 (page 4)
- PART D: ONGOING VA AND DEPARTMENT OF DEFENSE MUSTARD GAS EFFORTS (page 5)

SECTION II: DATABASES

- PART A: ESTABLISH PARTICIPANT DATABASE (page 6)
- PART B: ESTABLISH SURVIVING SPOUSE DATABASE (page 8)

SECTION III: OUTREACH

- PART A: OUTREACH (page 11)
- PART B: NOTIFICATION LETTERS (page 13)
- PART C: TELEPHONE INQUIRIES AND PERSONAL CONTACTS (page 14)
- PART D: MUSTARD GAS OUTREACH TIMELINE (page 16)

TABLE OF CONTENTS continued

SECTION IV: ADMINISTRATIVE

- PART A: DATABASE STRUCTURE (page 20)
- PART B: DATABASE UPDATES (page 22)
- PART C: TRACKING CLAIMS (page 22)
- PART D: CENTRALIZED VARO PROCESSING (page 24)
- PART E: PROBABLE MUSTARD GAS CLAIMS PROCESSING
FLOWCHART (page 26)

*Compensation and Pension Service (212)
January 13, 2005*

004488

VVA-VA 031610

VET007_001817

VVA-VA 031610

SECTION I: BACKGROUND

PART A. MUSTARD GAS POPULATION

During World War II, an estimated 60,000* servicemembers participated in chemical tests involving a variety of mustard agents, including mustard gas.

Of this 60,000 servicemen population, an estimated 4,000 servicemen participated in tests that involved the use of significant concentrations of mustard gas either in chambers or field exercises. An estimated 56,000 servicemen were exposed to mild exposures of mustard agents via patch tests. All participants swore to keep secret their participation.

*Some Department of Defense (DoD) researchers estimate that approximately 75,000 World War II servicemembers were exposed to mustard gas.

PART B. DETROIT FREE PRESS MUSTARD GAS ARTICLES

From November 10 to 12, 2004, Detroit Free Press journalist David Zeman released a three-part series on the plight of World War II veterans exposed to mustard gas and other poisons. The articles included interviews with a dozen or more mustard gas veterans. In the early 1990s, VA promised to individually notify these veterans of potentially harmful health effects of their exposure, and compensate them for related diseases. An internal review of the Department of Veterans Affairs' (VA's) known mustard gas program files failed to show such an exhaustive notification program.

PART C. NOTED VA MUSTARD GAS ACTIVITIES SINCE 1990

From 1990 to date, VA has conducted various activities related to mustard gas. The bulk of the activities were from 1990 to 1994, including the addition of new presumptive disabilities, the National Academy of Sciences publication of an Institute of Medicine (IOM) report, and the implementation of a public affairs outreach campaign to internal and external stakeholders.

- 1991 to 1995, released a series of claims processing circulars to VA regional offices (VAROs).
- 1991, contracted a study with IOM to determine the long-term health effects of mustard gas and Lewisite. The IOM study was released in January 1993.
- 1993, discussed health and benefits-related activities in a joint VA and IOM satellite broadcast entitled, "Mustard Gas Exposure in World War II Veterans."

*Compensation and Pension Service (212)
January 13, 2005*

7
004489

VVA-VA 031611

PART C. NOTED VA MUSTARD GAS ACTIVITIES SINCE 1990 CONTINUED

- 1993 to 1994, issued public service announcements, news releases and internal communications to VA employees that highlighted outreach efforts to mustard gas veterans and regulatory changes.
- 1994, published a final amendment to 38 CFR 3.316, which established presumptive service connection for select diseases associated with full body exposure to mustard gas and Lewisite, including asthma, chronic obstructive pulmonary disease, and certain cancers of the respiratory system. Service connection has been awarded to at least 400 veterans as a result of this regulation.
- 1996, published a study on the prevalence of post-traumatic stress disorder among mustard gas veterans entitled, "Post-Traumatic Stress Disorder Among World War II Mustard Gas Test Participants."
- 1996, assisted DoD in issuing commendation certificates to some of these veterans.
- 2000, conducted epidemiological studies, including one recommended by IOM.

PART D. ONGOING VA AND DOD MUSTARD GAS EFFORTS

In November 2004, DoD's Deployment Health Support Directorate hosted VA for a discussion on the declassification of select chemical and biological test information. DoD noted that some of the chemical test information includes World War II mustard gas testing.

VA has asked DoD to provide the names and personal identifiers of all test participants, especially those mustard gas test participants.

SECTION II: DATABASES

PART A: ESTABLISH PARTICIPANT DATABASE

By mid-February 2005, VA proposes the immediate delivery of notification letters by limiting data mining efforts to VA and Internal Revenue Service (IRS) databases. Step 1 through Step 3 represents these databases. Note: Individual notification letters will be released after each data match, when possible.

Based upon past practices with other unique veteran group efforts, the implementation of these steps will most likely generate SSNs and addresses for the following veterans:

- Veterans who were granted or disallowed VA benefits
- Veterans who received VA health care
- Veterans who currently receive or once received Social Security Administration (SSA) benefits
- Veterans who submitted tax paperwork to the IRS

Steps 4 and 5 will be utilized on case-by-case bases.

STEP 1 - DoD

a. Obtain DoD's Mustard Gas Database

DoD's Defense Manpower Data Center (DMDC) has the sole authority to verify mustard gas test participation. On December 15, 2004, VA's Compensation and Pension (C&P) Service received DMDC's mustard gas participant database. Of the 7,501 individuals identified as being exposed to mustard gas, 6,374 of these participants were servicemembers. The balance consisted of contractors and civilians.

STEP 2 - VBA Data Match

a. Populate DoD's Database With VBA Database Information

Upon a complete review of the DoD database, the Veterans Benefits Administration (VBA) will conduct data matches against its Beneficiary Identification Records Locator Subsystem (BIRLS) and Compensation and Pension Master Record (CPMR) databases in search of addresses, names, dates of death, and Social Security Numbers (SSNs).

Additionally, VA will retrieve all mustard gas claim data from the defunct Special Issue Rating System (SIRS) and the Veterans' Issues Tracking Adjudication Log (VITAL) databases. As of August 2004, the VITAL mustard gas database contained 376 service-connected (SC) disabilities for an undetermined amount of veterans.

b. Analyze All Other VA Databases

All VBA-gathered data will be cross-checked against various Veterans Health Administration (VHA), National Cemetery Administration (NCA), and Office of Policy Planning and Preparedness (008) databases. Examples of select databases follow:

- Veterans Health Information Systems and Technology Architecture (VISTA)
- Patient Treatment Files (PTF)
- Health Eligibility Center's (HEC's) Enrollment Database
- Burial Operations Support System (BOSS)
- Automated Monument Application System (AMAS)

Additionally, VHA's BIRLS Death File, one of the nation's largest mortality databases, will be examined for additional dates of death. Of note, the BIRLS Death File is populated on a routine basis with SSA's Death Master File.

VA's Veterans Affairs Information Resource Center (VIREC), a research and development database center, and the will be consulted for advice.

STEP 3 – IRS MATCH (PART 1)

a. SSN Match With IRS

SSNs without addresses will be forwarded to IRS for current addresses and dates of death.

This activity is coordinated via VHA's contract with the National Institute for Occupational Safety and Health (NIOSH) under the authority of Public Law 96-128, as amended by Public Law 96-466.

Section 502 of Public Law 96-128 permits the Secretary of Veterans Affairs to request that the Director of NIOSH request from IRS the mailing addresses of certain individuals whom the Secretary certifies as might have been exposed to occupational hazards during active military, naval, or air service.

These mailing addresses are for use solely to determine that status of their health or to inform them of the possible need for medical care and treatment and of benefits to which they may be entitled based on disability resulting from exposure to such occupational hazards.

STEP 4 – NPRC MATCH

a. Data Match With NPRC in St. Louis

Information on all remaining unidentified veterans will be forwarded to NPRC in St. Louis, MO for electronic and textual searches for SSNs.

STEP 5 – IRS MATCH (PART 2)

a. SSN Match With IRS Based Upon NPRC data match results

NPRC-data match SSNs without addresses will be forwarded to IRS for current addresses and dates of death.

STEP 6 - CREDIT BUREAU MATCH

a. Data Match With a Credit Bureau, Such as ChoicePoint

If possible, VA can attempt to locate addresses with ChoicePoint, a contracted credit bureau. These matches can be conducted via individual searches or batch data matches.

Step 5 should be utilized as a last resort given limitations such as dated addresses.

PART B: ESTABLISH SURVIVING SPOUSE DATABASE

Given the widely accepted World War II veteran mortality figure (1,000 deaths per day), there might be more surviving spouses than actual living veterans. With that said, VA will attempt to establish an outreach program for all surviving spouses

STEP 1 - OBTAIN DOD'S MUSTARD GAS DATABASE

On December 15, 2004, VA's C&P Service received DMDC's mustard gas participant database.

STEP 2 – VBA Data Match

a. Populate DoD's Database With VBA Database Information

Upon a complete review of the DoD database, VBA will conduct data matches against its BIRLS and CPMR databases in search of addresses, names, dates of death, and SSNs.

STEP 3 - IDENTIFY DECEASED VETERANS AND CREATE SUBSYSTEMS

The received DoD mustard gas, now populated with VBA data, will be segregated into "living" and "deceased" databases. Dates of death received from DoD and VBA will define the "deceased" database.

Select activities utilizing the following four "deceased" databases will assist VA in outreaching to surviving spouses:

a. Create Deceased #1 Subsystem – Surviving Spouses and Helpless Children in Receipt of Benefits

Upon identification as being in receipt of VA benefits, records for all surviving spouses or surviving helpless children will be placed into the "Deceased #1" subsystem. Notification letters will be issued to this population as soon as possible.

b. Create Deceased #2 Subsystem - SSNs

The Deceased #2 Subsystem will contain records for all surviving spouses and surviving helpless children records without addresses, but possessing the veteran's service number, SSN and date of death.

c. Create Deceased # 3 Subsystem – No Addresses or SSNs

This database will contain surviving spouse and helpless child records containing the veteran's service number without a SSN, address, or date of death

d. Create Deceased # 4 Subsystem – Names Without Personal Identifiers

Deceased #4 Subsystem will contain all full or fragmented veteran names without personal identifiers, addresses, or date of death.

**STEP 4 – OTHER FEDERAL AGENCY DATA MATCHES FOR DECEASED #2
SUBSYSTEM**

a. SSA and IRS MATCHES

Concurrently, VA will conduct data matches with SSA and IRS based upon the late veteran's SSN.

- **SSA Match**

The goal of the SSA match is to locate a surviving spouse in receipt of survivor benefits based on that SSN.

- **IRS Match**

The goal of the IRS match is to locate a surviving spouse who is linked to that SSN based upon the submission of taxpayer information or receipt of a tax refund.

All Deceased #2 Subsystem records with new addresses will be issued notification letters. Those records without addresses will be placed into the Deceased #3 Subsystem for action.

STEP 5 - CREDIT BUREAU MATCH

a. Data Match With a Credit Bureau, such as ChoicePoint

If possible, VA can attempt to locate addresses with ChoicePoint, a contracted credit bureau for Deceased #3 and Deceased #4 Subsystems. These matches can be conducted via individual searches or batch data matches.

Step 5 should be utilized as a last resort given limitations such as dated addresses.

SECTION III: OUTREACH

PART A: OUTREACH

Properly executed outreach is essential to locate those veterans and surviving spouses not recorded in VA databases. The following steps will facilitate this process:

STEP 1 – Under Secretary for Benefits (USB) Briefing

On January 7, 2005, the USB will be briefed on the C&P Service's plan to notify and outreach to mustard gas veterans and their surviving spouses.

STEP 2 – C&P Service and VBA Outreach Staffs Develop Outreach Strategies

C&P Service will generate a systematic approach towards locating mustard gas veterans and their surviving spouses. Outreach methods through a variety of media follow:

a. Office of Public and Intergovernmental Affairs (OPIA)

VBA defers to OPIA's Assistant Secretary to help develop a comprehensive public affairs campaign for mustard gas veterans and their surviving spouses.

b. Office of Congressional and Legislative Affairs

VA will ensure that updated fact sheets are internally and externally disseminated to proper entities.

c. VA Websites

VA's Internet and Intranet will highlight our mustard gas outreach program effort by providing an historical testing overview, benefits information, questions and answers, and points of contact.

d. Search Engines

VA will seek the support of major search engines by conducting the following activities:

- Making the VA mustard gas website as the default hit upon an information search request in search engines such as Google.
- Placing a major news line story in the news block on information/search engines such as Yahoo.

e. E-mail Addresses

Veterans and families can e-mail VA regarding mustard gas inquiries at Mustardgas@vba.va.gov.

f. Meetings

VA leadership can use existing monthly meetings with service organizations to discuss issues, such as mustard gas.

g. Notification Letters

As mentioned earlier, all verified participants for which VA has current addresses are issued notification letters and provided contact information.

h. Toll-free Telephone Access

VA can maintain a toll-free Help Line, which specifically addresses mustard gas issues. Please reference the “Telephone Inquires and Personal Contacts” section.

i. Military Websites

VA and military websites, such as Military.com, can partner to outreach to a wider audience.

j. VA Literature

VA literature, especially the Federal Benefits for Veterans and Dependents will be updated to include outreach information on mustard gas veterans.

STEP 3 – Meet with Public Affairs, Intergovernmental Affairs, and Congressional and Legislative Affairs

Upon receipt of the USB’s outreach plan approval, VBA’s Public Affairs staff must arrange a meeting with Department offices affiliated with external contacts. In this forum, VBA will outline a strategic plan consisting of stakeholder briefings.

STEP 4 – Brief Service Organizations

In this briefing, VBA will brief service organization heads on VA's mustard gas outreach plan. The major objectives are to inform organizations of outreach plans and to solicit assistance via magazine articles

STEP 5 – Brief House Veterans' Affairs Committee (HVAC) and Senate Veterans Affairs Committee (SVAC)

This step calls for VBA to inform select Members and their staff of renewed mustard gas activities.

STEP 6 – Final Plan Adjustments

Upon VBA's incorporation of stakeholder comments, VBA will ramp-up the implementation of the mustard gas notification action plan.

PART B: NOTIFICATION LETTERS

STEP 1 – Create Notification Letters for Veterans and Surviving Spouses

VA must draft unique notification letters for the veteran and surviving spouse populations. Such letters will include provisions for addressing incompetent veterans and helpless children. Each notification letter will provide verification of participation, health and benefits overview information (including all presumptive disabilities and diseases under 38 CFR 3.316), and points of contact (weblinks, telephone numbers, e-mail addresses). The following personal information may be included:

- Full name of veteran (first name, middle initial, last name)
- VA claim number
- Service number
- SSN
- Branch of service
- Month and year(s) of exposures
- Place of exposures
- Classification of exposure (testing, production, combat)

The C&P Service will issue all notification letters on a rolling basis.

STEP 2 – Department of Defense (DoD) Creates Fact Sheets

In the past, DoD has created test program fact sheets for VA outreach purposes. DoD and its chemical programs contractor, Chemical and Biological Defense Information Analysis Center (CBIAC), intend to create fact sheets for attachment to the notification letters. A hard-and-fast completion date for these facts sheets has not been issued.

STEP 3 – Issue Outreach Letters With Fact Sheets

Both VA and DoD will benefit from the inclusion of DoD fact sheets with VA notification letters.

PART C: TELEPHONE INQUIRIES AND PERSONAL CONTACTS

Veterans Services Representatives (VSRs), medical center eligibility staff, and VA contractors responding to telephone inquiries or personal contacts must remain familiar with mustard gas issues. Fact sheets and Question and Answer (Q&A) sheets, developed by appropriate staff, will serve as primary references.

VA's Special Issues Help Line (1-800-749-8387) representatives in St. Louis, MO will address verification of participation and program knowledge issues. VBA and VHA will fund and train the St. Louis-based representatives.

VSRs handling VA's toll-free line (1-800-827-1000) in each VARO must be familiar with mustard gas, especially procedures in VBA Adjudication Manual, M21-1, Part III, Chapter 5.18.

Select VHA eligibility staff will have access to VA's mustard gas database via a password protected Intranet website.

The following steps have been outlined for Part VIII:

STEP 1 – Inform VHA of Addition of Mustard Gas Issue to Help Line

VBA will meet with VHA to discuss adjustments and budget issues related to the Special Issues Help Line. Both VBA and VHA split the costs of the Special Issues Help Line which is staffed by contractors.

STEP 2 – Develop Fact Sheets for All VA Telephone and Contact Representatives

Select C&P Service staff will develop Fact and Q&A Sheets for internal and external VA use.

STEP 3 – Train St. Louis-Based Special Issues Telephone Representatives

VBA staff will conduct training for Special Issues Help Line representatives on program knowledge issues.

STEP 4– Conduct Mystery Calls During Initial Two Weeks

Select VACO staff will place mystery calls to the Special Issues Help Line and the main VA toll-free number to gauge the effectiveness and accuracy of initial training.

STEP 5 – Assess Mystery Calls and Issue Guidance

Select VACO staff will review mystery call results and post guidance to all telephone representatives on VA's mustard gas Intranet website.

STEP 6– Conduct 2nd Round of Mystery Calls

Two months after the 1st mystery calls, select VACO staff will conduct a 2nd round of mystery calls to the Special Issues Help Line and the main VA toll-free numbers. Callers will utilize the same questions.

STEP 7 – Assess 2nd Round of Mystery Calls and Issue Guidance

Select VACO staff will review mystery call results and post guidance to all telephone representatives via the Intranet website.

PART D: MUSTARD GAS OUTREACH TIMELINE

EVENT (OWNER)	TIME	COMPLETION DATE	EXPECTED COMPLETION DATE
Section I: This section contains mustard gas background information only			
Section II: Databases			
Part A: Establish Participant Database			
Step 1: Obtain DoD's Mustard Gas Database (212)	1 day	December 15, 2004	
Step 2: VBA Data Match			
a. Populate Database with VBA Database Information (PA&I)	3 weeks		February 7, 2005
b. Analyze All Other VA Databases (008)	2 weeks		February 27, 2005
Step 3: IRS Match – Part 1 (212)	1 month		March 27, 2005
Step 4: NPRC Match (212)	3 weeks		April 18, 2005
Step 5: IRS Match – Part 2 (212)	1 month		May 18, 2005
Step 6: Credit Bureau Match (212)*	1 week		May 25, 2005
*This data match will be utilized if SSNs or addresses cannot be located via Steps 1-3.			
Part B: Establish Surviving Spouse Database			
Step 1: Obtain DoD's Mustard Gas Database (212)	1 day	December 15, 2004	
Step 2: VBA Data Match			
a. Populate Database with VBA Database Information (PA&I)	3 weeks		February 7, 2005
Step 3: Identify Deceased Veterans and Create Subsystems (212)	2 weeks		February 27, 2005
a. Create Deceased #1 Subsystem (212)	1 day		February 28, 2005
b. Create Deceased #2 Subsystem (212)	1 day		February 28, 2005
c. Create Deceased #3 Subsystem (212)	1 day		February 28, 2005
d. Create Deceased #4 Subsystem (212)	1 day		February 28, 2005

00101

*Compensation and Pension Service (212)
January 13, 2005*

PART D: MUSTARD GAS OUTREACH TIMELINE continued

EVENT (OWNER)	TIME	COMPLETION DATE	EXPECTED COMPLETION DATE
Step 4: Other Federal Agency Data Matches For Deceased #2 Subsystem (212) a. SSA and IRS Matches	1 month 45 days		March 28, 2005 April 14, 2005
Step 5: Credit Bureau Match a. Data match With a Credit Bureau, such as ChoicePoint (212)	1 week 1 week		April 22, 2005 May 2, 2005
Step 6: Credit Bureau Match (212)**			
**This data match will be utilized if SSNs or addresses cannot be located via Steps 1-4.			
Section III: Outreach			
Part A: Outreach			
Step 1: Under Secretary for Benefits (USB) Briefing (21)	1 day		January 7, 2005
Step 2: C&P and VBA Outreach Develop Outreach Strategies (212, 216, 20P)	1 week		January 14, 2005
Step 3: Meet with Public Affairs, Intergovernmental Affairs and Congressional and Legislative Affairs (20)	1 week 2 weeks 4 weeks 1 week		January 24, 2005 January 25, 2005 January 27, 2005 March 8, 2005
Step 4: Brief Service Organizations (21)			
Step 5: Brief HVAC and SVAC (21)			
Step 6: Final Plan Adjustments (212)			
Part B: Notification Letters			
Step 1: Create Notification Letters for Veterans Surviving Spouses (211)	3 weeks		January 28, 2005
Step 2: DoD Creates Fact Sheets (DoD)	2 months?		March 7, 2005
Step 3: Issue Outreach Letters With Fact Sheets (216)	2 weeks		April 15, 2005

*Compensation and Pension Service (212)
January 13, 2005*

PART B: MUSTARD GAS OUTREACH TIMELINE continued

EVENT (OWNER)	TIME	COMPLETION DATE	EXPECTED COMPLETION DATE
Part C: Telephone Inquiries and Personal Contacts			
Step 1: Inform VHA on Addition of Mustard Gas to Special Issues Help Line (216)	4 days		January 14, 200
Step 2: Develop Fact Sheet for Telephone Representatives (212)	2 weeks		January 28, 2005
Step 3: Train St. Louis-Based Special Issues Telephone Representatives (216)	1 month		February 7, 2005
Step 4: Conduct Mystery Calls During Initial Two Weeks (216)	1 week		March 15, 2005
Step 5: Assess Mystery Calls and Issue Guidance (216)	1 week		March 24, 2005
Step 6: Conduct 2 nd Round of Mystery Calls (216)	1 week		April 4, 2005
Step 7: Assess Mystery Calls and Issue Guidance (216)	1 week		April 13, 2005
Section IV: Administrative			
Part A: Database Structure			
Step 1: Reformat New VA/DoD Data (212)	1 week		April 6, 2005
Part B: Database Updates			
Step 1: Establish Business Agreement (212)	1 day	January 6, 2005	
Part C: Tracking Claims			
Step 1: Secure Mustard Gas End Product (212)	1 day	December 15, 2004	February 7, 2005
Step 2: Claims Development Fast Letter (212)	1 month		February 28, 2005
Step 3: Manual Updates (212)	7 weeks		Due 1st of each month
Step 4: Monthly Report (212)	1 week		after initial release

Compensation and Pension Service (212)
January 13, 2005

PART B: MUSTARD GAS OUTREACH TIMELINE continued

EVENT (OWNER)	TIME	COMPLETION DATE	EXPECTED COMPLETION DATE
Part D: Centralized VARO Processing			
Step 1: Obtain Tentative Office of Field Operations (OFO) Approval	1 day	January 5, 2005	January 7, 2005
Step 2: Provide Assessment of Workload (212)	1 day		February 6, 2005
Step 3: Secure USB Approval (21)	1 month		March 7, 2005
Step 4: Outline Claims Processes to Field (212)	3 weeks		

*Compensation and Pension Service (212)
January 13, 2005*

SECTION IV: ADMINISTRATIVE

PART A: DATABASE STRUCTURE

STEP 1 – Reformat New VA/DoD Data

The MS Excel or MS Access database should contain the following fields:

a. Name Information

Last Name
First Name
Middle Name
Suffix
Surviving Spouse's Name

b. Personal Identifiers

Veteran's SSN
Service Number
VA Claim Number

Surviving Spouse's SSN

c. Vital Dates

Veteran's Date of Birth
Veteran's Date of Death
Surviving Spouse's Date of Death

d. Mailing Addresses for Veteran and Surviving Spouse

Address
City
State
Zip Code

e. Service Information

Branch
Entrance on Active Duty (EOD)
Release from Active Duty (RAD)

*Compensation and Pension Service (212)
January 13, 2005*

23

004505

VVA-VA 031627

f. Testing Information

Number of exposures
Month and year of exposures
Base/Site of Exposure (i.e. Edgewood, Bari Harbor)
Organizational Designation
Type of Agent
Classification of Exposure (i.e. testing, manufacturing, warfare excluding Bari Harbor, and Bari Harbor)

g. VA Benefits

Veteran

Benefit (i.e. 2L, 21)
Combined SC Disability Evaluation
SC Diagnostic Codes
Power of Attorney (POA)

Surviving Spouse

Benefit (i.e. 2D, 27)
POA

h. Notifications

VA Letter
Returned VA Letter
Reason for Return
Remailed Letter Date

i. Certificate

DoD Commendation Certificate (Yes/No)

PART B: DATABASE UPDATES

STEP 1 – Establish Business Agreement

On January 6, 2005, a business agreement was established between VBA and 008 regarding quarterly updates to the master VA Mustard Gas Database.

PART C: TRACKING CLAIMS

STEP 1 – Secure Mustard Gas End Product (EP)

A specific EP or a third-digit modifier, VBA's work measurement control, does not exist for mustard gas claims. A business decision is under way to utilize EP 688 concurrently with standard compensation or pension EP controls.

It is understood that all VSRs must populate MAP-D with proper development information. A mustard gas special issue exists on the MAP-D contentions screen.

STEP 2 – Claims Development Fast Letter

VACO will issue a new fast letter to all field stations outlining all claims development changes.

Effective immediately, the centralized mustard gas VARO must submit development e-mails to VACO at VAVBAWAS/CO/MUSTARDGAS or MUSTARDGAS@vba.va.gov, which contains the following information:

- Full name of veteran (first name, middle initial, last name)
- VA claim number
- Service number
- SSN
- Branch of service
- Month and year(s) of exposures
- Location of exposures
- Classification of exposure (i.e. testing, manufacturing, warfare excluding Bari Harbor, and Bari Harbor)
- Disabilities claimed (include body system)
- Receipt of VA mustard gas letter

Note: This e-mail must be submitted to VACO regardless of a veteran's receipt of a VA mustard gas notification letter.

*Compensation and Pension Service (212)
January 13, 2005*

25
004507

VVA-VA 031629

VET007_001836

VVA-VA 031629

In response, C&P Service will provide a confirmatory or negative response regarding verification of participation based upon records in the master VA Mustard Gas database.

If a negative response is provided, DoD's DMDC remains the sole authority in verifying participation. Please develop to the proper entity as outlined in M21-1, Part III, Chapter 5.18.

C&P Service uses the information provided by VAROs to look for patterns in the disabilities being claimed by mustard gas participants and to track decision outcomes.

c. Ratings

C&P Service will need to know the outcome of all mustard gas claims. Please remember to e-mail all mustard gas rating decisions (under the subject name "MG Rating") to the mustard gas mailbox.

Note: All offices should clearly identify those disabilities which the veteran claimed or which the RVSR granted as related to exposures from mustard gas tests. Please type "[MG]" by claimed symptoms or the diagnosis in RBA 2000.

STEP 3 – Manual Updates

VBA Adjudication Manual M21-1, Part III, Chapter 5.18 is being modified to reflect changes in development procedures for mustard gas claims.

STEP 4 – Monthly Report

In response to internal or external inquiries, C&P Service will prepare the following monthly reports or data items:

- Pending mustard gas claims
- Decided mustard gas claims
- Mustard gas exposure grants by body systems
- Mustard gas exposure grants by type of exposure (i.e. testing, manufacturing, warfare excluding Bari Harbor, and Bari Harbor)
- Mustard gas claim disallowances (e.g. no service record, no presumptive disabilities, death, failure to furnish)

*Compensation and Pension Service (212)
January 13, 2005*

26

004508

VVA-VA 031630

PART D: CENTRALIZED VARO PROCESSING

VBA intends to select one VARO as the centralized processing site for all mustard gas claims. A business decision has not been finalized on the location of this office.

STEP 1 – Obtain OFO Approval

On January 5, 2005, OFO tentatively approved the centralized processing of mustard gas claims for one site

STEP 2 – Provide Workload Assessment

C&P Service to provide VBA leadership with an assessment of anticipated workload.

STEP 3 – Secure USB Approval

C&P Service must obtain USB's approval for the centralization of mustard gas claims processing.

STEP 4 – Claims Process

a. Pending Claims

All VAROs will expeditiously complete existing pending mustard gas claims. The submission of development e-mails and electronic ratings to VACO is still required.

b. New Claims

All VARO mail operations and Triage Teams must be cognizant of incoming claims from World War II mustard gas and Lewisite exposures.

• Mail

Local VAROs must forward all received mustard gas claims to the centralized processing site. Claims folders must only accompany the new claim if the record is located in a VARO's file banks. Do not recall claims folders from any records repository.

Ensure that the phrase "Mustard Gas Claim - Expedite" is clearly marked on the routing slip, or envelope.

- **Development**

The centralized site will develop all mustard gas claims utilizing MAP-D. The centralized office will request all examinations.

c. Finalized Claims

VAROs must e-mail electronic ratings with code sheets to VACO for any veteran or surviving spouse who claimed compensation or pension benefits due to mustard gas exposures.

Prepared by Joe Salvatore
Compensation and Pension Service, Procedures Staff (212)

Compensation and Pension Service (212)
January 13, 2005

28

004510

VVA-VA 031632

Compensation and Pension Service (212)
January 13, 2005

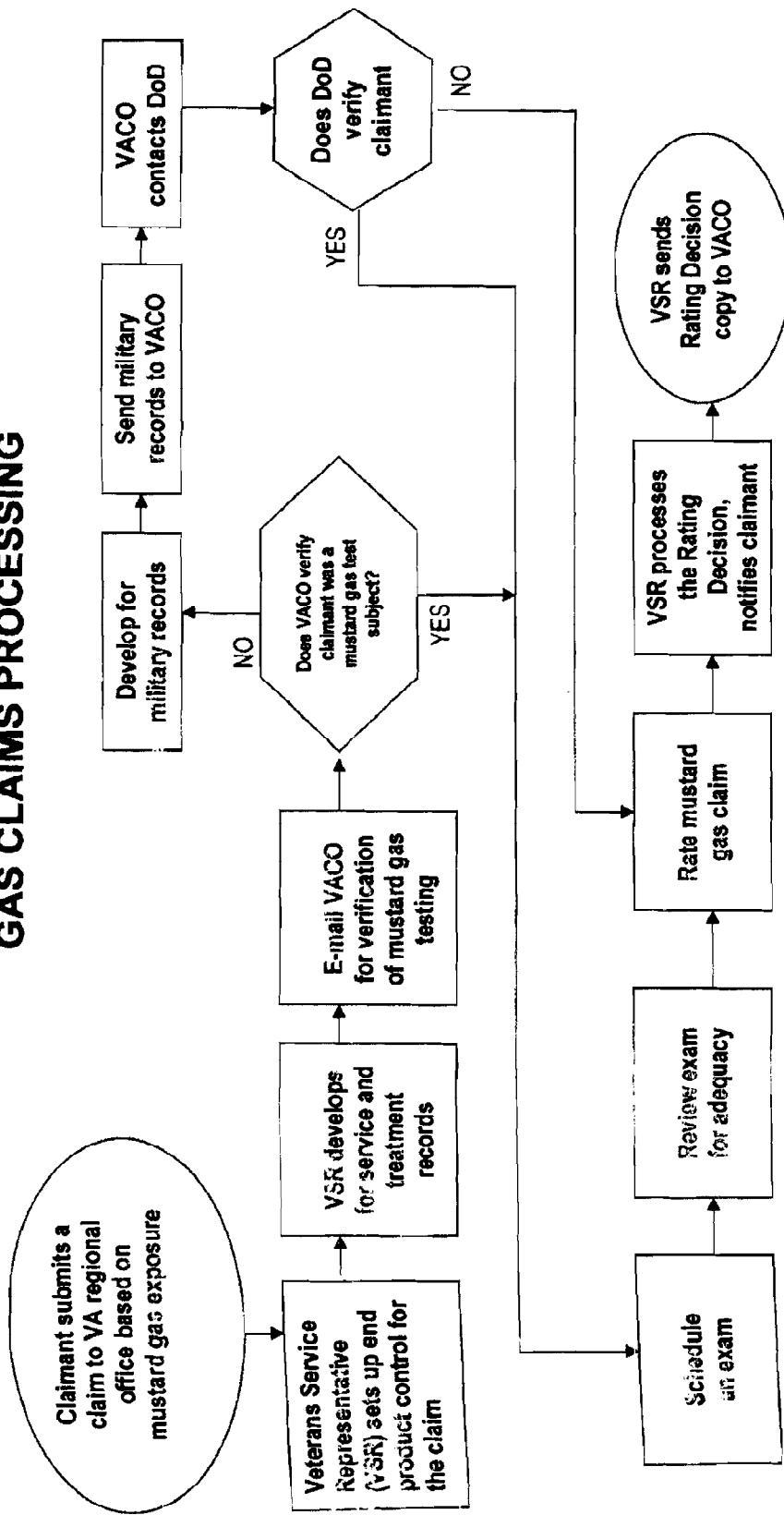
29

031511
VVA-VA 031633

VET007_001840

VVA-VA 031633

PART X: PROBABLE MUSTARD GAS CLAIMS PROCESSING



Please contact Joe Salvatore of the Veterans Benefits Administration at (202) 273-6948 regarding detailed mustard gas claims processing.

Compensation and Pension Service (212)
January 13, 2005

001512