

# **EXHIBIT 26**



DEPARTMENT OF VETERANS AFFAIRS  
Veterans Benefits Administration  
Washington, DC 20420

September 12, 2006

Director (00/21)  
All VA Regional Offices and Centers

In Reply Refer To: 212  
Training Letter 06-04

SUBJ: Department of Defense (DoD) Identifies Additional Service Members Who Participated in the Testing of Chemical and Biological Warfare Agents During Service

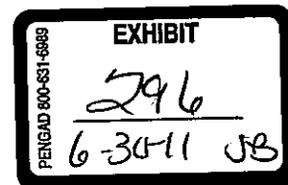
Over the past six years, VA has notified potential beneficiaries about the exposure of certain service members to chemical and biological warfare agents (i.e., Project 112/SHAD and mustard gas) during service. This training letter provides guidance for handling claims stemming from DoD's release of the Chemical, Biological, Radiological, Nuclear, and Explosives (CBRNE) database, which contains the names of several thousand service members who were exposed to one or more of at least 140 chemical or biological agents during tests conducted at Edgewood Arsenal in Maryland. The Compensation and Pension Service has already begun the process of notifying individuals who may be entitled to compensation for disabilities resulting from these tests.

If you have any questions about the content of this letter, please contact David Abbot by e-mail.

/s/  
Renée L. Szybala  
Director  
Compensation and Pension Service

Enclosures:

- Attachment A: Information for Public Inquiries
- Attachment B: Authorization Procedures
- Attachment C: Rating Procedures
- VBA Notification Letter to Test Participants
- Fact Sheet – *Edgewood Arsenal Chemical Agent Exposure Studies: 1955-1975*



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## **ATTACHMENT A**

### **Information for Public Inquiries**

#### **What Is the CBRNE Database?**

The Chemical, Biological, Radiological, Nuclear, and Explosives (CBRNE) database contains the names of over 4,400 servicemembers who participated, or who were scheduled to participate, in a number of tests involving more than 140 agents and simulants at Edgewood Arsenal in Maryland. According to the Department of Defense (DoD), these tests were conducted between 1955 and 1975.

During the remainder of 2006, DoD expects to expand the database by including the names of additional servicemembers who participated in tests at Ft. Detrick, Maryland, and Dugway Proving Ground, Utah. DoD may eventually extend its investigation to tests conducted at other locations.

#### **How Will Participants Be Notified? -**

In the immediate future, Compensation and Pension (C&P) Service will mail notification letters to approximately 1,800 servicemembers who participated in testing at Edgewood Arsenal. The notification letter does not include the name of the test agents because of the number and complex nature of these substances. VA will release more letters as it locates the current mailing addresses of additional test participants.

The attached DoD fact sheet, Edgewood Arsenal Chemical Agent Exposure Studies: 1955-1975, describes the tests in more detail and will be enclosed in all letters to potential beneficiaries.

#### **Are There Any Presumptive Conditions or Common Disabilities?**

No. DoD used more than 140 agents in these tests, with differing duration, dosage, and methods of exposure. DoD has noted that an Institute of Medicine study conducted between 1982-85 found no significant long-term health effects in Edgewood Arsenal test participants.

## **Can a Person Claiming Exposure As a Test Participant Receive Medical Treatment at a VA Medical Center?**

Yes. Here is the statement that will be sent to all test participants:

“Although there is no specific medical test or evaluation for the types of exposures you might have experienced more than 30 years ago, VA is offering a clinical examination to veterans who receive this notification letter. If you have health concerns and wish to be medically evaluated, PLEASE BRING THIS LETTER WITH YOU TO THE NEAREST VA HEALTH CARE FACILITY. This letter will help you apply for the examination by providing needed documentation. Additional medical information about potential exposures is available through ‘environmental health coordinators’ located in every VA medical center.

Note: The examination itself does not constitute, or provide eligibility for, enrollment in the VA health care system. If you are not already enrolled, you are encouraged to apply for VA health care benefits at the time you apply for the examination.”

## **What If There Are Questions About the Tests and Agents?**

Any individual with questions about chemical or biological tests conducted during military service, to include veterans with concerns about releasing classified information, should contact DoD at (800) 497-6261, Monday through Friday, 9 a.m. to 9 p.m., Eastern time.

## **ATTACHMENT B Authorization Procedures**

### **Defining a Chemical, Biological, Radiological, Nuclear, and Explosive (CBRNE) Claim**

A CBRNE claim is one in which the claimant alleges disease or injury as a result of participation in any chemical or biological test other than Project 112/SHAD or tests involving mustard gas, regardless of test location. While Edgewood Arsenal, Ft. Detrick, and Dugway Proving Ground are known test locations, others likely exist.

Claims that allege exposure to a chemical or biological agent, but do not attribute the development of a specific disability or disease to said exposure, are not substantially complete and should not be controlled. (See M21-1MR, Part I, Chapter 1, Section B, Topic 3, Block b, for information on handling incomplete claims.)

### **End Product (EP) Control**

Upon receipt of a substantially complete CBRNE claim, establish EP 683 in addition to the standard EP (e.g., 010, 110, 020). If DoD is ultimately unable to verify a claimant's participation in a CBRNE test, PCAN the EP 683. (See paragraph below, titled "Claimant Not in CBRNE Database.") Otherwise, EP 683 should remain pending until all CBRNE issues are resolved by rating decision and the claimant is notified.

As long as ROs continue to e-mail requests to C&P Service for verification of participation in Project 112/SHAD or CBRNE testing, C&P Service will be able to continue tracking both issues with the same EP (683).

### **E-Mail C&P Service to Verify Participation in CBRNE Testing**

E-mail requests for verification of participation in CBRNE testing to the CBRNE mailbox (VAVBAWAS/CO/CBRNE). Even if the claim seems implausible based on evidence in the claims folder (e.g., the veteran claims exposure before or after the period 1955 to 1975), DoD has sole authority to validate whether an individual participated in any chemical or biological test. Also, it is possible that DoD may declassify other tests later.

The subject heading of the e-mail should read "CBRNE Test"; the body of the e-mail must contain the following information:

- The veteran's full name, VA file number, branch of military service, social security number, and, if applicable, service number. (Older DoD records contain only the 8-digit service number of tests participants.)
- Available test information (e.g., test location, description of the test, or how exposure occurred).
- The nature of the disability(ies) claimed as due to exposure to chemical or biological test agents during service.

C&P Service uses the information provided by ROs to look for patterns in the disabilities test participants claim and to track decision outcomes.

Below is an example of the information C&P Service will provide in response to an RO request for participation in CBRNE testing:

Veteran's Name	-----
VA File #	-----
SSN	XXX-XX-XXXX
Date(s) of Exposure	July 24, 1967
Place of Exposure	Edgewood Arsenal
Type of Exposure	Injection
Agent/Simulant Name	Scopolamine
Agent/Simulant Amount	16.6 microgram/kg of body weight
Agent/Simulant Form	Liquid
Munition/Mechanism of Exposure	Syringe
Route of Exposure	Intramuscular
Antidote Used	VX was used as an antidote

ROs must provide the above information to the examiner when requesting an opinion as to a relationship between a disease or disability and participation in CBRNE testing during service. (See Attachment C, Rating Procedures.)

### Claimant Not in CBRNE Database

If C&P Service responds that the claimant's name is not in the current CBRNE database, develop for a copy of the veteran's service personnel file, to include DD Form 214, if not otherwise available. When received, send a copy of the records to:

Department of Veterans Affairs  
 Compensation and Pension Service (212)  
 810 Vermont Ave, NW  
 Washington, DC 20420

ATTN: Chem-Bio Manager

If there are fewer than 20 personnel records, ROs may fax them to the Chem-Bio Manager at 202-275-0562.

When C&P Service receives the records, it will forward a copy to DoD for further investigation. If DoD's final response remains negative, C&P Service will notify the requestor by e-mail of that fact; the RO should cancel the EP 683 and continue normal claims processing.

### **Claimant Is a Verified Test Participant**

Upon verification of a veteran's participation in CBRNE testing, the Pre-Determination Team will determine the need for a physical examination. (See Attachment C, Rating Procedures.)

### **Electronic Submission of Rating Decisions**

C&P Service must track the outcome of all CBRNE claims. At the time the claimant is notified of a rating decision involving a CBRNE claim, please e-mail a copy of the decision (under the subject heading "CBRNE Rating") to the CBRNE mailbox (VAVBAWAS/CO/CBRNE).

## ATTACHMENT C Rating Procedures

### Scheduling an Exam

If an RO determines an examination is needed in order to decide a CBRNE claim, the RO must submit the examination request to a VA medical facility (as opposed to a contract examiner). While the development procedures for these cases are slightly different from Project 112/SHAD claims, the fundamental rating principles remain the same.

**Medical Opinions:** If a medical opinion on the relationship between participation in CBRNE testing and the development of a disability or disease is needed, use the medical opinion template found in M21-1MR, Part III, Subpart iv, Chapter 3, Section A, Topic 14.

*Note:* Currently, the Veterans Health Administration is preparing an information letter for physicians that addresses questions about the potential health effects to veterans involved in the testing of warfare agents from the 1950s to 1975. Once approved, this letter will be posted at [www.va.gov/EnvironAgents](http://www.va.gov/EnvironAgents), under a section titled "Under Secretary for Health Information Letters." After its release, this medical resource should be brought to the examiner's attention, either in the examination request or, preferably, printed and back-filed in the claims folder for the examiner's review.

**AMIE/CAPRI:** In the Remarks section of the AMIE/CAPRI examination request, include a list of the agents, simulants, tracers, antidotes, etc., to which C&P Service verifies the veteran was exposed. Back-file a copy of the e-mail from C&P Service, along with any relevant documentation (such as the DoD fact sheet, the VHA information letter on these tests, etc.) in the claims folder. Ensure the examiner reviews the claims folder as part of the examination and is aware of these and other relevant enclosures.

### Review of Medical Opinions

Medical opinions must be based on the veteran's documented history and the doctor's examination, in conjunction with a review of the claims folder. Therefore, if the examiner fails to indicate that he or she reviewed the claims folder, return the examination report as inadequate.

If the examiner cannot conclude whether a relationship exists between the claimed disability or disease and participation in CBRNE testing, he or she must state whether it is at least as likely as not that a relationship exists. "At least as likely as not" is the

lowest threshold of certainty the examiner can express that will support a grant of service connection. Insufficient justification for a grant of service connection includes statements such as the "effects of exposure are unknown," or an exposure "could be a contributor," or an exposure "may have a relationship" to a disease or disability.

Additionally, the medical opinion must include a supporting rationale. A medical opinion without a supporting rationale carries no probative value. Ensure that the explanation is logical. Further, if medical literature is used as support for the examiner's opinion, it is critical that the examination report include a discussion as to why, or how, medical literature supports the examiner's opinion. If no supporting rationale for the medical opinion is provided, return the file to the examiner to provide one, citing 38 CFR 4.2.

### Rating Code Sheet

When completing the subject line on the Issue Management screen in RBA 2000, end the description of the disability with [CBRNE]. For example: *Scar, Residual of Chemical Tests* [CBRNE]. This will clearly identify on the code sheet those disabilities that the veteran claimed, or which the RVSR decided, are related to participation in CBRNE testing. Both grants and denials of service connection should be annotated.



DEPARTMENT OF VETERANS AFFAIRS  
Veterans Benefits Administration  
Washington, D.C. 20420

<<FNAME>> <<MI>> <<LNAME>>  
<<ADDRESS>>  
<<CITY>>, <<STATE>> <<ZIP>>

SSN # <<SSN>>

Dear Mr. <<LNAME>>:

According to records recently released by the Department of Defense (DoD), you participated in tests at Edgewood Arsenal in Maryland during your tour of service in the <<Branch>>. The purpose of this letter is to inform you about the tests and what to do if you have related health concerns.

**Information About the Tests**

The tests at Edgewood Arsenal exposed participants, with their consent, to a number of different chemicals. The tests' objectives were to determine specific health effects associated with exposure, to assess various pre-and post-exposure medical treatments, and to evaluate the effectiveness of personal protective equipment. Not all volunteers were exposed to chemical agents; some received placebos (harmless substances with no health risks). Others performed stress tests without exposure to chemicals. Please see the enclosed DoD fact sheet, *Edgewood Arsenal Chemical Agent Exposure Studies: 1955-1975*, for additional information.

**What You Can Discuss About the Tests**

You may be concerned about releasing classified test information to your health care provider when discussing your health concerns. To former service members who participated in these tests, DoD has stated:

"You may provide details that affect your health to your health care provider. For example, you may discuss what you believe your exposure was at the time, reactions, treatment you sought or received, and the general location and time of the tests. On the other hand, you should not discuss anything that relates to operational information that might reveal chemical or biological warfare vulnerabilities or capabilities."

Page 2.

<<LNAME>>, <<FNAME>> <<MI>>  
SSN # <<SSN>>

### **If You Have Questions About the Tests**

If you have questions about chemical or biological agent tests, or concerns about releasing classified information, contact DoD at (800) 497-6261, Monday through Friday, 9 a.m. to 9 p.m. Eastern time.

### **If You Have Health Concerns**

Although there is no specific medical test or evaluation for the types of exposures you might have experienced more than 30 years ago, VA is offering a clinical examination to veterans who receive this notification letter. If you have health concerns and wish to be medically evaluated, PLEASE BRING THIS LETTER WITH YOU TO THE NEAREST VA HEALTH CARE FACILITY. This letter will help you apply for the examination by providing needed documentation. Additional medical information about potential exposures is available through the "Environmental Health Coordinators," who are located in every VA medical center.

Note: The examination itself does not constitute, or provide eligibility for, enrollment in the VA health care system. If you are not already enrolled, you are encouraged to apply for VA health care benefits at the time you apply for the examination.

In addition to this clinical examination, if you think that you suffer from chronic health problems as a result of these tests, contact VA toll free at (800) 827-1000 to speak to a VA representative about filing a disability claim. You may also contact your local veterans service organization for assistance.

Scientists know much about many of the agents used in these tests. In order to best serve veterans and their families, VA continues to study the possibility of long-term health effects associated with in-service exposure to chemical and biological agents. If the medical community identifies such health effects, I assure you that we will share this information with you and other veterans as it becomes available to us.

Sincerely yours,

Daniel L. Cooper  
Acting Under Secretary for Benefits

Enclosure

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## *FACT SHEET*

### Deployment Health Support Directorate

For more information,  
1-800 497-6261

Version 07-01-2006

### **Edgewood Arsenal Chemical Agent Exposure Studies: 1955 – 1975**

The Department of Defense is committed to share with the Department of Veterans' Affairs the databases it compiles on military personnel who participated in prior military chemical and biological operational testing. During the 1990s, the Defense Department compiled the Mustard Participant Database and from 2000 to 2003, the Projects-112/SHAD Database. The Department is currently working to catalogue tests conducted since 1942 that were not included in the earlier databases. As part of this effort, the Defense Department is cataloguing the tests that were conducted at Edgewood Arsenal, Maryland from 1955 to 1975. The Institute of Medicine (IOM) published a three-volume study between 1982 and 1985 on the long-term health effects of exposure to the chemicals tested.<sup>1</sup> The study did not detect any significant long-term health effects in Edgewood Arsenal volunteers.

During the 1955-1975 Edgewood Arsenal testing, the Army Chemical Corps Medical Department conducted classified medical studies involving nerve agents, nerve agent treatments (antidotes), psychochemicals (hallucinogenic drugs), irritants, and blistering agents. The purpose of the studies was to ensure that the U.S. military could adequately protect its servicemembers from possible wartime exposures to chemical warfare agents. As part of this effort, the Army conducted testing on approximately 7,000 volunteers at Edgewood Arsenal. These studies exposed participants, with their consent, to a number of different chemicals. The study objectives were to determine specific health effects associated with exposure (particularly at low dosages), to assess various pre- and post-exposure medical treatments, and to evaluate the effectiveness of personal protective equipment in preventing exposure.

The program evaluated the effects of low-dose exposures to chemical agents and their treatments, how well personnel performed mentally and physically following exposure, how easily some chemicals were absorbed into the body through the skin, and the effectiveness of personal protective equipment. Not all volunteers were exposed to chemical agents. Some only received placebos (harmless substances with no health risks) or performed stress tests without any exposure to chemicals.

Initially investigators determined exposure levels based on known safe levels in laboratory animals. They increased exposure levels only when there was a low risk of

<sup>1</sup> Institute of Medicine, Possible Long-Term Health Effects of Short-Term Exposure To Chemical Agents, Volumes 1-3, 1982, 1984, 1985.

serious side effects. The study investigators assured that the exposure levels administered would not result in serious or life-threatening side effects. If required, the volunteers received treatment for any adverse health effects.

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## Frequently Asked Questions

### Edgewood Arsenal Chemical Agent Exposure Studies: 1955 – 1975

**Q: Where did the Army get its test participants?**

A: Army enlisted men assigned to installations near Edgewood Arsenal were the initial source of volunteers. Over time, the Army recruited volunteers from throughout the United States and from other Services. About 75 service members participated during each 30-60 day testing period. As a group, the volunteers selected to participate in the studies were above average in physical and mental qualifications when compared to other service members.

**Q: Were study participants true volunteers?**

A: The Army obtained the voluntary consent of volunteers and provided them with study information.

**Q: Does the Department of Defense still conduct human experimentation with chemical agents?**

A: No. Current medical chemical defense programs involving human subjects do not involve the exposure of these subjects to chemical agents.

There are medical chemical defense programs that involve the use of human subjects in controlled clinical trials to test and evaluate the safety and effectiveness, of medical products (drugs, therapies, *etc.*) to protect against chemical agents. The use of human subjects in these trials involves volunteers who have provided informed consent. All use of human subjects in these trials is in full compliance with the "Common Rule," Federal Policy for the Protection of Human Subjects, Food and Drug Administration (FDA) regulations, Federal Acquisition Regulations (FAR), DOD Directives and Instructions, and *all* other applicable laws, regulations, issuances, and requirements.

**Q: What databases are the Department of Defense maintaining on veterans exposed to chemical and biological agents?**

A: DoD maintains a Project 112/SHAD (Shipboard Hazard and Defense) database. This database contains the names of veterans who were participated in Project 112/SHAD testing in the 1960s and 1970s. It contains more than 6,000 names and is updated as needed when we discover additional veterans who were part of this testing. We also maintain a database containing the names of veterans who participated in mustard agent tests during World War II. We are currently in the process of populating our third exposure database, the Edgewood Arsenal Chemical Agent Exposure Studies database (1955-1975). The Edgewood Arsenal Chemical Agent Exposure Studies Database (1955-1975) is part of the database of all other chemical and biological testing since World War II.

**Q: Besides names and service numbers, what other information does the DoD database contain on the Edgewood volunteers?**

A: For each individual, the database will contain the following:

- Type of test (i.e., performance, equipment etc.)
- Type of exposure (i.e., injection, intravenous (IV) etc.)
- Date of exposure
- Agent/simulant name
- Agent/simulant amount if recorded
- Treatments required as a result of the exposure
- Documents describing the test procedures, if available.

**Q: Who maintains the database for veterans exposed to radiation?**

A: The Defense Threat Reduction Agency maintains information on veterans exposed to radiation during the Nuclear Test Personnel Review (NTPR) Program.

**Q: What types of tests were conducted at Edgewood?**

A: Table 1 provides a rough breakout of volunteer hours against various experimental categories:

Incapacitating compounds (i.e. vomiting agent)	29.9%
Lethal compounds (i.e. sarin)	14.5 %
Riot control compounds (i.e. CS)	14.2%
Protective equipment and clothing (masks, rubber suits, etc.)	13.2%
Development evaluation and test procedures	12.5%
Effects of drugs and environmental stress on human physiological mechanisms (i.e. wakefulness)	6.4%
Human factors tests (ability to follow instructions)	2.1%
Other (visual studies, sleep deprivation, etc.)	7.2%

**Q: Did the Army expose the volunteers to hallucinogenic compounds?**

A: Yes, there were studies at Edgewood that exposed volunteers to hallucinogenic drugs like LSD. Although the current medical literature indicates that such exposure may have some long-lasting effects among some individuals, such as "flashbacks" (visual hallucinations without new drug exposure), the volunteer records from the times of the Edgewood studies did not record these kinds of after effects among the Edgewood study volunteers.