

109TH CONGRESS  
2D SESSION

# H. R. 4739

To provide compensation to individuals who, during the Vietnam conflict, were employees of the Federal Government or contractor employees of the Department of Defense and suffered disability or death from exposure to Agent Orange.

---

## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 8, 2006

Mr. WEXLER (for himself, Mr. FOLEY, and Mr. EVANS) introduced the following bill; which was referred to the Committee on the Judiciary

---

## A BILL

To provide compensation to individuals who, during the Vietnam conflict, were employees of the Federal Government or contractor employees of the Department of Defense and suffered disability or death from exposure to Agent Orange.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Civilian Agent Orange  
5       Act of 2006”.

6       **SEC. 2. DEFINITIONS.**

7       In this Act:

1           (1) EXPOSED EMPLOYEE.—The term “exposed  
2       employee” means an individual who—

3           (A) during the Vietnam conflict—

4               (i) was a civilian employee of the Fed-  
5       eral Government, or an employee of a con-  
6       tractor (or subcontractor at any tier) of  
7       the Department of Defense; and

8               (ii) while so employed, was—

9                   (I) physically present in the Re-  
10       public of Vietnam during the period  
11       beginning January 9, 1962, and end-  
12       ing on May 7, 1975; or

13                  (II) in or near the Korean demili-  
14       tarized zone during the period begin-  
15       ning September 1, 1967, and ending  
16       on August 31, 1971;

17       (B) contracted an Agent Orange illness;

18       and

19       (C) suffered injury or death by reason of  
20       that illness.

21       (2) AGENT ORANGE ILLNESS.—The term  
22       “Agent Orange illness” means an illness listed by  
23       the National Institute of Medicine as having at least  
24       a limited or suggestive association with 2,4-  
25       dichlorophenoxyacetic acid (2,4-D), 1,4,5-

1 trichlorophenoxyacetic acid (2,4,5-T), 4-amino-  
2 3,5,6-trichloropicolinic acid (picloram), and cacodylic  
3 acid (dimethylarsenic acid, DMA), and 2,3,7,8-  
4 tetrachlorodibenzo-*p*-dioxin (TCDD, or dioxin).

5 **SEC. 3. COMPENSATION PROGRAM.**

6 (a) IN GENERAL.—There is hereby established a pro-  
7 gram to be known as the “Agent Orange Illness Com-  
8 pensation Program” (in this Act referred to as the “com-  
9 pensation program”), to be carried out by the Attorney  
10 General.

11 (b) PURPOSE.—The purpose of the compensation  
12 program is to provide for timely, uniform, and adequate  
13 compensation of exposed employees and, where applicable,  
14 survivors of such employees, suffering from Agent Orange  
15 illnesses incurred by such employees.

16 **SEC. 4. COMPENSATION FUND.**

17 (a) ESTABLISHMENT.—There is hereby established  
18 on the books of the Treasury a fund to be known as the  
19 “Agent Orange Illness Compensation Fund” (in this Act  
20 referred to as the “compensation fund”).

21 (b) AMOUNTS.—The compensation fund shall consist  
22 of the following amounts:

23 (1) Amounts appropriated to the compensation  
24 fund pursuant to an authorization of appropriations.

1           (2) Amounts transferred to the compensation  
2       fund.

3       (c) FINANCING.—Upon the exhaustion of amounts in  
4 the compensation fund, the Secretary of the Treasury  
5 shall transfer directly to the compensation fund from the  
6 General Fund of the Treasury, without further appropria-  
7 tion, such amounts as are further necessary to carry out  
8 the compensation program.

9       (d) USE.—Subject to subsection (e) of this section,  
10 amounts in the compensation fund shall be used to carry  
11 out the compensation program.

12       (e) ADMINISTRATIVE COSTS NOT PAID FROM  
13 FUND.—No cost incurred in carrying out the compensa-  
14 tion program, or in administering the compensation fund,  
15 shall be paid from the compensation fund.

16       (f) MONETARY ALLOWANCE NOT TO BE CONSIDERED  
17 AS INCOME OR RESOURCES FOR CERTAIN PURPOSES.—  
18 Notwithstanding any other provision of law, a monetary  
19 allowance paid an individual under this Act shall not be  
20 considered as income or resources in determining eligi-  
21 bility for, or the amount of benefits under any Federal  
22 or federally assisted program.

23       (g) INVESTMENT.—Amounts in the compensation  
24 fund shall be invested in accordance with section 9702 of  
25 title 31, and any interest on, and proceeds from, any such

1 investment shall be credited to and become a part of the  
2 compensation fund.

3 (h) AUTHORIZATION OF APPROPRIATIONS.—There is  
4 hereby authorized to be appropriated \$100,000,000 to the  
5 compensation fund.

6 **SEC. 5. COMPENSATION TO BE PROVIDED.**

7 (a) IN GENERAL.—An exposed employee, or the eligi-  
8 ble survivor of that employee if the employee is deceased,  
9 shall receive compensation for the injury, illness, or death  
10 of that employee from that employee's Agent Orange ill-  
11 ness in an amount determined under subsection (b).

12 (b) AMOUNT.—For each exposed employee, the Attor-  
13 ney General shall provide compensation in the amount of  
14 \$100,000.

15 (c) PAYMENTS IN THE CASE OF DECEASED PER-  
16 SONS.—

17 (1) SURVIVORS ELIGIBLE.—In the case of an  
18 exposed employee who is deceased at the time of  
19 payment of compensation under this section, wheth-  
20 er or not the death is the result of the employee's  
21 Agent Orange illness, such payment may be made  
22 only as follows:

23 (A) If the employee is survived by a spouse  
24 who is living at the time of payment, such pay-  
25 ment shall be made to such surviving spouse.

1 (B) If there is no surviving spouse de-  
2 scribed in subparagraph (A), such payment  
3 shall be made in equal shares to all children of  
4 the employee who—

5 (i) had not yet attained the age of 18  
6 when the employee died or was perma-  
7 nently or totally disabled before the age of  
8 18; and

9 (ii) are living at the time of payment.

10 (2) CLAIMS.—If an employee eligible for pay-  
11 ment dies before filing a claim under this Act, a sur-  
12 vivor of that employee who may receive payment  
13 under paragraph (1) may file a claim for such pay-  
14 ment.

15 (3) DEFINITIONS.—For purposes of this sub-  
16 section—

17 (A) the “spouse” of an individual is a wife  
18 or husband of that individual who was married  
19 to that individual for at least one year imme-  
20 diately before the death of that individual; and

21 (B) a “child” includes a recognized natural  
22 child, a stepchild who lived with an individual  
23 in a regular parent-child relationship, and an  
24 adopted child.

1 (d) CHILDREN WITH SPINA BIFIDA.—In any case in  
2 which a child of an exposed employee is born with spina  
3 bifida by reason of that employee’s exposure to Agent Or-  
4 ange, that child shall directly receive compensation in an  
5 amount determined under subsection (b).

6 **SEC. 6. CLAIMS PROCESSING.**

7 (a) IN GENERAL.—Subject to subsections (b), (c),  
8 and (d), the Attorney General shall specify standards and  
9 criteria for filing applications and for processing, deter-  
10 mining, and paying claims.

11 (b) DEADLINE.—A claim not filed within 20 years  
12 after the date of the enactment of this Act is void.

13 (c) WRITTEN MEDICAL DOCUMENTATION.—Payment  
14 may not be made on a claim except on written medical  
15 evidence that the Attorney General, in consultation with  
16 the Surgeon General, determines to be adequate.

17 (d) REVIEW.—Unless otherwise specified by the At-  
18 torney General, any determination on a claim under this  
19 Act is not subject to administrative or judicial review.

20 **SEC. 7. IMPLEMENTATION.**

21 (a) IN GENERAL.—The Attorney General shall pre-  
22 scribe regulations to implement this Act.

23 **SEC. 8. OFFSET FOR CERTAIN OTHER PAYMENTS.**

24 A payment of compensation to an individual, or to  
25 a survivor of that individual, under this Act shall be offset

1 by the amount of any payment made pursuant to a final  
2 award or settlement on a claim, against any person, that  
3 is based on the same illness, injury, or death of that indi-  
4 vidual on account of exposure to Agent Orange herbicides.

○