

Gagetown Harmful Chemical Study Commission

Wednesday, November 15, 2023

Time: 12:00 p.m. to 4:00 p.m.

Location: State House, Room 437

The meeting will be streamed live at the following link: <https://legislature.maine.gov/Audio/#437>

AGENDA

- I. [12:00 p.m.] Welcome from the Chairs
- II. Overview of Commission duties and legislative background
- III. Commission member introductions
- IV. Maine Bureau of Veterans' Services – history and overview of harmful chemicals at Gagetown
 - *Director David Richmond & Barrett Fisher, Veterans Claims Supervisor*
- V. Next steps

Additional information and materials are available on the Commission's webpage at:
<https://legislature.maine.gov/gagetown-harmful-chemical-study-commission>

Gagetown Harmful Chemical Study Commission
Resolve 2023, ch. 95

Membership List

Name	Representation
President Troy D. Jackson - Chair	Senate member, appointed by the President of the Senate
Representative Ronald Russell - Chair	House member, appointed by the Speaker of the House
Senator Bradlee Farrin	Senate member, appointed by the President of the Senate
Representative Mark Babin	House member, appointed by the Speaker of the House
Jan McColm	A family member of a veteran who served at the Canadian military support base in Gagetown, New Brunswick, Canada, appointed by the President of the Senate
David Donovan	Representing veterans' advocacy organizations, appointed by the President of the Senate
Don Page	Who served at Gagetown and was exposed to harmful chemicals during their service, appointed by the President of the Senate
Karen St. Peter	Representing veterans' advocacy organizations appointed by the Speaker of the House
Dana Michaud	Who served at Gagetown and was exposed to harmful chemicals during their service, appointed by the Speaker of the House
Jim Gehring	With expertise processing veterans' claims for benefits related to harmful chemicals, appointed by the Speaker of the House

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

S.P. 628 - L.D. 1597

Resolve, to Establish the Gagetown Harmful Chemical Study Commission

Sec. 1. Study commission established. Resolved: That the Gagetown Harmful Chemical Study Commission, referred to in this resolve as "the study commission," is established.

Sec. 2. Study commission membership. Resolved: That, notwithstanding Joint Rule 353, the study commission consists of 10 members appointed as follows:

1. Two members of the Senate appointed by the President of the Senate, including members from each of the 2 parties holding the largest number of seats in the Legislature;
2. Two members of the House of Representatives appointed by the Speaker of the House, including members from each of the 2 parties holding the largest number of seats in the Legislature;
3. Two members who represent veterans' advocacy organizations, one appointed by the President of the Senate and one appointed by the Speaker of the House;
4. One member who is a family member of a veteran who served at the Canadian military support base in Gagetown, New Brunswick, Canada, appointed by the President of the Senate;
5. One member with expertise processing veterans' claims for benefits related to harmful chemicals, appointed by the Speaker of the House; and
6. Two members who served at Gagetown and were exposed to harmful chemicals during their service, one appointed by the President of the Senate and one appointed by the Speaker of the House.

Sec. 3. Chairs. Resolved: That the first-named Senate member is the Senate chair and the first-named House of Representatives member is the House chair of the study commission.

Sec. 4. Appointments; convening of study commission. Resolved: That all appointments must be made no later than 30 days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. After appointment of all members,

the chairs shall call and convene the first meeting of the study commission. If 30 days or more after the effective date of this resolve a majority of but not all appointments have been made, the chairs may request authority and the Legislative Council may grant authority for the study commission to meet and conduct its business.

Sec. 5. Duties. Resolved: That the study commission shall study the impacts of exposure to harmful chemicals on veterans who served at the Canadian military support base in Gagetown, New Brunswick, Canada.

Sec. 6. Staff assistance. Resolved: That the Legislative Council shall provide necessary staffing services to the study commission, except that Legislative Council staff support is not authorized when the Legislature is in regular or special session.

Sec. 7. Report. Resolved: That, no later than December 6, 2023, the study commission shall submit a report that includes its findings and recommendations, including suggested legislation, to the Joint Standing Committee on Veterans and Legal Affairs.

Maine's Freedom of Access Act and the Conduct of the Business of the Legislature

Prepared for the Right to Know Advisory Committee
by the Office of Policy and Legal Analysis and the Office of the Attorney General
Updated January 2023

The Maine Freedom of Access Act requires governmental entities to conduct public business in the open and to provide access to public records. Legislative meetings and records are subject to the law and must be open to the public, with some limited exceptions set forth in the law.

Intent of the Freedom of Access Law

The Maine Freedom of Access Act provides that it is the intent of the Legislature that “actions [involving the conduct of the people’s business] be taken openly and that the records of their actions be open to public inspection and their deliberations be conducted openly.” The Freedom of Access Act, found in Title 1 of the Maine Revised Statutes, chapter 13, applies to all governmental entities, including the Legislature.

Public Proceedings

Under state law, all meetings of the Legislature, its joint standing committees and legislative subcommittees are public proceedings. A legislative subcommittee is a group of 3 or more committee members appointed for the purpose of conducting legislative business on behalf of the committee.

The public must be given notice of public proceedings and must be allowed to attend. Notice must be given in ample time to allow the public to attend and in a manner reasonably calculated to notify the general public. The public is also allowed to record the proceedings as long as the activity does not interfere with the orderly conduct of the proceedings.

Party caucuses are not committees or subcommittees of the Legislature, so their meetings do not appear to be public proceedings. Similarly, informal meetings of the members of a committee who are affiliated with the same party are not public proceedings as these members are not designated by the committee as a whole to conduct business of the committee. However, committee members should be careful when they caucus not to make decisions or otherwise use the caucus to circumvent the public proceeding requirements.

Limited Exception to Public Proceedings (Executive Sessions)

In very limited situations, joint standing committees may hold executive sessions to discuss certain matters. State law is quite specific as to those matters that may be deliberated in executive sessions. The executive session must not be used to defeat the purpose of the Act, which is to ensure that the people’s business is conducted in the open.

The permitted reasons for executive session are set forth in the law, Title 1, section 405 and Title 3, section 156. The reasons most relevant to legislative work are discussion of confidential records and pre-hearing conferences on confirmations.

An executive session may be called only by a public, recorded vote of 3/5 of the members, present and voting, of the committee. The motion to go into executive session must indicate the precise nature of the business to be discussed and no other matters may be discussed. A committee may not take any votes or other official action in executive sessions.

If a committee wants to hold an executive session, the committee should discuss the circumstances with an attorney from the Office of Policy and Legal Analysis or the Office of Fiscal and Program Review who can provide the committee with guidance about whether an executive session is permitted and, if so, how to proceed.

Public Records

The Freedom of Access Act defines “public records” broadly, to include all material in possession of public agencies, staff and officials if the materials were received or prepared for use in, or relate to, the transaction of public or governmental business. The scope of the definition means that most, if not all, papers and electronic records relating to legislative business are public records. This includes records that may be stored on an individual legislator’s personal computer, tablet or smartphone if they relate to or were prepared for use in the transaction of public business, *e.g.*, constituent inquiries, emails, text messages or other correspondence about legislative matters. Information contained in a communication between a constituent and a legislator may be confidential if it meets certain narrow requirements.

Time-limited Exception from Public Disclosure for Certain Legislative Records

The Freedom of Access Act contains exceptions to the general rule that public records must be made available for public inspection and copying. One exception that is relevant to legislative work allows certain legislative papers to be withheld from public disclosure until the end of the legislative session in which they are being used. The exceptions are as follows:

- ❑ Legislative papers and reports (*e.g.* bill drafts, committee amendments and the like) are not public records until signed and publicly distributed; and
- ❑ Working papers, drafts, records, and memoranda used to prepare proposed legislative papers or reports are not public records until the end of the legislative session in which the papers or reports are prepared or considered or to which they are carried over.

The Legislative Council’s Confidentiality Policy and the Joint Rules provide guidance to legislative staff about how such records are to be treated before they become public records.

Confidential Records in the Possession of Committees

Committees may also need to be prepared to deal with other types of non-public records, such as individual medical or financial records that are classified as confidential under state or federal law.

If the committee comes into possession of records that are declared confidential by law, the Freedom of Access Act allows the committee to withhold those records from the public and to go into executive session to consider them (see discussion above for the proper process).

In addition, the committee should also find out whether there are laws that set specific limitations on, and penalties for, dissemination of those records. The Office of the Attorney General or an attorney from the Office of Policy and Legal Analysis or the Office of Fiscal and Program Review can help the committee with these records.

Joint Rule 313 also sets forth procedures to be followed by a committee that possesses confidential records.

Legislative Review of Public Record Exceptions

All exceptions to the public records law are subject to a review process. A legislative committee that considers a legislative measure proposing a new statutory exception must refer the measure to the Judiciary Committee if a majority of the committee supports the proposed exception. The Judiciary Committee will review and evaluate the proposal according to statutory standards, then report findings and recommendations to the committee of jurisdiction. The Judiciary Committee regularly seeks input from the Right to Know Advisory Committee on public records, confidentiality and other freedom of access issues.

Public Access Ombudsman

The Public Access Ombudsman, an attorney located in the Department of the Attorney General, is available to provide information about public meetings and public records, to help resolve complaints about accessing proceedings and records and to help educate the public as well as public agencies and officials. Legislators may contact the Public Access Ombudsman, Brenda Kielty, at Brenda.Kielty@maine.gov, or (207) 626-8577 for assistance.

Gagetown Harmful Chemical Study Commission

Background Materials
November 15, 2023

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2. DVEM Update #1 to Information Paper – February 9, 2006
3. DVEM Update #2 to Information Paper – August 10, 2006
4. DVEM Update #3 to Information Paper – September 27, 2007
5. Letter from CDC Director to US Senator Collins – July 9, 2012
6. Letter from US Representative Michaud to General Allison A. Hickey, Under Secretary for Benefits, US Department of Veterans Affairs – July 19, 2012
7. Letter from US Representative Michaud to the Environmental Protection Agency – July 19, 2012
8. Portland Press Herald Article, *CDC to probe Maine troops' possible toxin exposure* – July 25, 2012
9. Letter from US Representative Michaud to Honorable Eric K. Shinseki, Secretary, US Department of Veterans Affairs – August 29, 2012
10. ATSDR/CDC Review of Gagetown Herbicide Spray Programs – January 30, 2013
11. Letter from Senator Collins to Honorable Eric K. Shinseki, Secretary, US Department of Veterans Affairs – March 29, 2013
12. Maine DVEM, Bureau of Veterans' Services CFB Gagetown & Agents Orange/Purple Questionnaire
13. *Order in Council P.C. 2010-1607 December 9, 2010 Testing of Unregistered US Military Herbicides, including Agent Orange, at CFB Gagetown Ex Gratia Payments Order* [Original Order issued September 10, 2007, updated December 9, 2010]
14. LD 1597 *Resolve, to Establish the Gagetown Harmful Chemical Study Commission* – Bill Analysis, May 1, 2023

Following the meeting, materials will be available on the Commission's webpage at:
<https://legislature.maine.gov/gagetown-harmful-chemical-study-commission>

CFB Gagetown & Agents Orange/Purple

Information Paper as of 28JUN05

The Canadian Department of National Defense (DND) announced that for three days in June 1966 (14-16) and four days in June 1967 (21-24), small-scale testing of various defoliants and desiccants, including Agent Orange and Agent Purple, took place over a small portion of the Canadian Forces Base (CFB), Gagetown, New Brunswick.

Based on current information, Canadian officials stated that the U.S. supplied only two barrels of the Agent Orange and Agent Purple defoliants for testing purposes. The testing did not involve wide-spread spraying. Controlled testing occurred under strict conditions, ensuring minimal drift, in an area difficult to access. The testing area was comprised of two small areas covering approximately 83 acres of the 180,000 plus acres of CFB Gagetown.

The DND stated last week they will be initiating a soil, vegetation, and water sampling program this summer in the areas where Agents Orange and Purple were tested. Upon completion of the testing the results will be made available to the public **and the U.S. government**. The DND will also be working with the U.S. Department of Defense (DOD) to research the relevant files concerning Agent Orange and the 1966/1967 testing to better understand and evaluate any issues of concerns.

Once the U.S. government has received the soil testing results; DOD and other agencies such as the Center for Disease Control and Prevention (CDC), the National Institute for Occupational Safety and Health (NIOSH), the National Cancer Institute (NCI), the Environmental Protection Agency (EPA), and the National Academy of Science's Institute of Medicine will **review** the results. This process and the results may take several months to finalize.

In the mean time, the Maine National Guard remains determined to look after our soldiers, both current and former guardsmen and women. The Maine National Guard began training at CFB Gagetown in 1971, four years after the completion of Agents Orange and Purple testing and have trained there regularly since. Upon completion of the testing and validation process the Maine National Guard will make a determination of our future use of CFB Gagetown training site. The next scheduled training is in June 2006, although this is subject to change. We will ensure all precautionary measures are taken while our soldiers train for war.

The Maine National Guard and the Department of Veteran's Services understand the concerns of both present soldiers and veterans. In that regard, a link will be established on the Maine National Guard internet website (<http://www.me.ngb.army.mil/Default.htm>) **to provide update regarding this issue as information becomes available**. In addition, **current and former soldiers** will be afforded the opportunity to be **added to a contact list of soldiers who trained** at CFB Gagetown. Should the need arise; these personnel will be contacted. For those without internet access, you can call the Department of

Veteran's Services in Augusta, Maine at 207-626-4464 to obtain updates and be added to the contact list.

Since the initial use of Agent Orange, significant studies and validation of effects on personnel have resulted in various national programs and assistance for affected veterans. The Veteran's Affairs (VA) currently maintains an active VA Agent Orange Registry and provides medical treatment or disability compensation to Vietnam veterans. In 2001, the program expanded to examinations of Korean veterans who served in Korea in 1968 and 1969 and may have been exposed to dioxin or other toxic substances used for military purposes. Additional information, fact sheets, and newsletters are available online at www.va.gov/agentorange or call the toll-free helpline at 1-800-749-8387.

John W. Libby
Major General
Commissioner
207-626-4205

Peter W. Ogden
Director
207-626-4464



**Department of Defense, Veterans and Emergency Management
Maine Veterans' Services
117 State House Station, Augusta, ME 04333-0117
Tel.: 207-626-4464**

February 9, 2006

**Update #1
to
INFORMATION PAPER
Agent Orange/Agent Purple
and
Canadian Forces Base Gagetown**

1. Background Information:

a. Agent Orange was a mixture of chemicals containing equal amounts of the two active ingredients, 2, 4-D and 2,4,5-T. The name, "Agent Orange," came from the orange stripe on the 55-gallon drums in which it was stored. Other herbicides, including Agent Purple a less well known but more toxic agent, were also used in Vietnam, but to a much lesser extent. Republic of Korea forces used small amounts of Agent Orange in 1968-69 in the area from the Civilian Control line to the southern boundary of the Demilitarized Zone. Since the initial use of Agent Orange, significant studies and validation of effects on personnel have resulted in various national programs and assistance for affected veterans. The Department of Veterans Affairs (VA) currently maintains an active VA Agent Orange Registry and provides medical treatment or disability compensation to Vietnam veterans. In 2001, the program expanded to examinations of Korean veterans who served in Korea in 1968 and 1969 and may have been exposed to dioxin or other toxic substances while serving in the military.

Additional information, fact sheets, and newsletters are available online at www.va.gov/agentorange or call the toll-free helpline at 1-800-749-8387.

b. In June of 2005, the Canadian Department of National Defense (DND) announced that for three days in June 1966 (14-16) and four days in June 1967 (21-24), testing of various defoliants, including Agent Orange and Agent Purple, took place over a limited portion of the Canadian Forces Base (CFB) Gagetown, New Brunswick. Additionally, according to the Canadian DND and the Canadian Forces (CF) website, "the testing was conducted under strictly controlled conditions, ensuring minimal spray drift, in an area of the base that was difficult to access," "the testing did not involve wide-spread spraying," and "these tests are the only known instances, based on available information, in which Agents Orange and Purple were sprayed at CFB Gagetown." According to the Canadian DND and the Canadian Forces, the testing area consisted of two small areas covering approximately 83 acres of the 180,000 plus acres of CFB Gagetown. Additional information is available at the Canadian DND/CF website: (http://www.forces.gc.ca/site/newsroom/view_news_e.asp?id=1685).

2. What the State of Maine is doing for those who may have been exposed to Agent Orange while training at CFB Gagetown:

a. The Maine National Guard and the Maine Bureau of Veterans' Services take very seriously the health and safety concerns of both present soldiers and our veterans. In that regard, on July 6, 2005 a link was established on the Maine National Guard internet website (<http://www.me.ngb.army.mil/Default.htm>) to provide updates regarding this issue as information became available. In addition, soldiers and veterans were afforded the opportunity to be added to a contact list of soldiers who trained at CFB Gagetown. Those without internet access could call the Bureau of Veteran's Services in Augusta, Maine at 207-626-4464 to obtain updates and manually register.

b. The Director of Maine Veterans' Services met with The Adjutant General of the Maine National Guard, the Togus VA Medical Center Director, and the VA Regional Office Director in early July 2005 to determine the best way to move forward with providing information to Maine's veterans and to discuss the handling of potential claims for possible exposure to Agent Orange at CFG Gagetown. Both the Medical Center Director and the Regional Office Director have been very supportive in the development of this information paper and are just as concerned for the welfare of our veterans as we are.

c. The Director of Maine Veterans' Services wrote to Maine's Congressional Delegation in July 2005 informing them of the Agent Orange issue at CFB Gagetown and requesting their support in working with the Department of Veterans Affairs (VA) to assist Maine's National Guard members with any Agent Orange issues they may have.

d. The Director of Maine Veterans' Services wrote to the Secretary of the Department of Veterans Affairs in October 2005 asking for clarification of how Maine National Guardsmen and women could get the AOR screening and file claims with the VA for Agent Orange issues. The results of this letter are: CFB Gagetown is on the approved DOD list of potential Agent Orange exposure areas; the VA will adjudicate claims for those illness that are presumptively attributed to Agent Orange; and veterans, as defined by the VA, can receive an Agent Orange Registry examination if they so chose.

e. Maine Veterans' Services and the Maine National Guard is producing a map that will show the habitual training areas frequented by Maine National Guard units while training at CFB Gagetown. This map will be available for viewing at all Maine Army National Guard Armories and Maine Veterans' Services offices by April 15, 2006. A copy of this map will be provided to the Department of Veterans Affairs Regional Office at Togus to assist in adjudicating claims for exposure to Agent Orange at CFB Gagetown.

f. This information paper will be made available to the individuals on the contact list, veteran's organizations in Maine, Maine National Guard Armories, local media outlets, and the other states whose National Guard and Reserve soldiers trained at CFB Gagetown.

3. Agent Orange Registry:

a. In order for individuals to be eligible for the Agent Orange Registry (AOR), they must first have veteran status. National Guard personnel can qualify as veterans by:

(1) having been called to active duty by presidential order and having completed the full period of time they were called to active duty;

(2) having a prior active duty period; or

(3) having a VA adjudicated service-connected condition or disability. National Guard personnel who were on active duty for training (ADT) only are not eligible for the AOR examination unless they have a VA adjudicated service-connected disability or condition.

b. If you are veteran who has had exposure to Agent Orange, you are eligible for a free Agent Orange Registry examination. Veterans who participate in the registry program are asked a series of questions about their possible exposure to herbicides. A medical history is taken, a physical examination is performed, and a series of basic laboratory tests, such as a chest x-ray (if appropriate), urinalysis, and blood tests are done. If the examining physician thinks it is medically indicated, consultations with other physicians are scheduled.

c. Results of the examinations, including a review of military service and exposure history, are entered into special, computerized databases called registries. These databases assist the VA in analyzing the types of health conditions being reported by veterans. Registry participants are advised of the results of their examinations in personal consultations. Veterans wishing to participate should contact the nearest VA health care facility for an examination. Additionally, the VA has established an Agent Orange Helpline at 1-800-749-8387. As with the Korean veterans (1968-1969), **the VA currently will only provide Agent Orange Registry examinations to those veterans who were in CFB Gagetown during 1966-1967 and are exhibiting symptoms of one of the Agent Orange presumptive illnesses.**

d. National Guard personnel who served in Vietnam and CFB Gagetown and have not participated in the Agent Orange Registry examination should request the examination for their Vietnam service as this provides a broader period of eligibility and the presumption of exposure to Agent Orange.

4. Filing a claim with the VA for exposure to Agent Orange:

a. The Department of Veterans Affairs (VA) currently offers service-connected compensation for certain diseases believed to be associated with Agent Orange exposure. The following conditions are now presumptively recognized for service-connection for Vietnam veterans and other veterans based on exposure to Agent Orange or other herbicides: **chloracne** (a skin disorder); **porphyria cutanea tarda**, acute or subacute; transient **peripheral neuropathy** (a nerve disorder); **Type 2 diabetes**; **non-Hodgkin's lymphoma**; **chronic lymphocytic leukemia**; **soft tissue sarcoma**; **Hodgkin's disease**; **multiple myeloma**; **prostate cancer**; and **respiratory cancers** (including cancers of the lung, larynx, trachea, and bronchus). In addition, Vietnam veterans' children with the birth defect spina bifida are eligible for certain benefits and services. Spina bifida benefits are also provided to

the children of veterans who served at or near the Korean DMZ from April 1968 to July 1969. In 1999, the VA announced that statutory authority would be sought for similar benefits and services for children with birth defects who were born to women Vietnam veterans.

b. If an individual who trained in CFB Gagetown suffers from one of the above presumptive illnesses attributed to Agent Orange, he/she should file a claim with the VA. A veteran who served in Vietnam (boots on the ground) is presumed to have been exposed to Agent Orange because of the large volume and the widespread use of Agent Orange in Vietnam. **Individuals who trained at CFB Gagetown will not have the same presumption of exposure given to Vietnam Veterans due to the limited use of Agent Orange at CFB Gagetown.** National Guardsmen and women will have to provide credible evidence that they were in Gagetown and in the area where Agent Orange was used. Surviving spouses and/or children of National Guard members who trained at CFB Gagetown and died of one of the presumptive illnesses can also file a claim with the VA.

c. Current and former **Maine** National Guard members can get copies of their orders showing duty at CFB Gagetown from the Maine National Guard Records Holding Facility at Camp Keyes. We recommend that anyone having a computer request their records by email at the following address: RECORDS@ME.NGB.ARMY.MIL. The subject line should include: CFB Gagetown Records. **All requests will require the completion and submission of the Maine National Guard Request For Information Disclosure Form prior to the information being released.** The form can be mailed or faxed to Camp Keyes. The request should be processed within 30 days of receipt depending on the volume of requests for records.

5. Where to get help in filing a claim with the Department of Veterans Affairs or information on Agent Orange/Agent Purple:

a. Maine Veterans' Services (MVS): MVS has offices in seven locations throughout the state staffed by Veterans Advocates that are familiar with Agent Orange issues and are ready to assist Maine's National Guard member's with claims assistance.

(1) Bangor	(207) 941-3005
(2) Caribou	(207) 492-1173
(3) Lewiston	(207) 783-5306
(4) Machias	(207) 255-3306
(5) Springvale	(207) 324-1839
(6) Waterville	(207) 872-7846
(7) Togus	(207) 623-5732

b. Veteran Service Organizations: The following service organizations have service officers familiar with Agent Orange issues and are ready to assist in the claims process.

(1) American Legion	(207) 623-5726	Togus Office
(2) Disabled American Veterans	(207) 623-5725	Togus Office
(3) Veterans of Foreign Wars	(207) 623-5723	Togus Office

c. The Department of Veterans Affairs (VA): A veteran can get an Agent Orange Registry examination by calling the VA 1-877-421-8263, ext 4733. If the veteran wishes to file a

claim with the VA themselves they can do that by visiting the VA website: <http://www1.va.gov/agentorange/> or calling 1-800-827-1000. The VA stands ready to assist any veteran who wishes to file a claim for service-connected injuries/illnesses.

6. VA Health Care for exposure to Agent Orange:

a. The VA provides treatment to any veteran who, while serving in Vietnam or other approved areas, may have been exposed to dioxin or to a toxic substance in a herbicide or defoliant used for military purposes, for conditions related to such exposure.

b. There are some restrictions. VA cannot provide such care for (1) a disability which VA determines did **not** result from exposure to Agent Orange, or (2) a disease which the National Academy of Sciences has determined that there is "limited/suggestive" evidence of **no** association between occurrence of the disease and exposure to a herbicide agent.

7. Future updates: There has been much speculation about other spraying periods of Agent Orange and/or other dioxins at CFB Gagetown. As new and substantiated information becomes available we will update the information on our websites and provide that information to the individuals on our contact list.

8. Questions concerning this information paper should be directed to the undersigned at (207) 626-4464.

Peter W. Ogden
Director

Enclosure: Maine National Guard Request For Information Disclosure

DEPARTMENT OF DEFENSE,
VETERANS AND EMERGENCY MANAGEMENT
Military Bureau
JFHQ Maine National Guard
State House Station #33
Camp Keyes, Augusta, Maine 04333-0033

REQUEST FOR INFORMATION DISCLOSURE

PLEASE PROVIDE AS MUCH INFORMATION AS POSSIBLE SO THAT WE MAY FACILITATE
PROCESSING YOUR REQUEST

LAST NAME: _____ FIRST NAME: _____ MI: _____

SSN: _____ SVC#: _____ DOB: _____

DISCHARGE DATE: _____ RANK: _____ PHONE#: _____

UNIT: _____ REQUESTORS NAME: _____

HOME ADDRESS: _____

CITY/STATE/ZIP: _____

INFORMATION NEEDED: DD214 _____ NGB FM22 _____ NGBFM23 _____

MEDICAL RECORDS _____ IMMUNIZATIONS _____

OTHER: _____

THIS INFORMATION IS NEEDED FOR: _____

“THE PRIVACY ACT OF 1974 (5 USC 552a) REQUIRES THAT WE OBTAIN YOUR WRITTEN
CONSENT PRIOR TO DISCLOSURE OF THE REQUESTED INFORMATION”

I CONSENT TO THE REQUESTED DISCLOSURE: _____
(YOUR SIGNATURE /DATE REQUIRED HERE)

*****DO NOT FILL OUT BELOW THIS LINE-OFFICE USE ONLY*****

REQUEST FILLED ON: DATE: _____ BY: _____

IF MAILING, RETURN TO: DEPT OF DEFENSE, VETERANS AND
EMERGENCY MANAGEMENT
ATTN: PUBSME
STATE HOUSE STATION #33
AUGUSTA, MAINE 04333-0033

TELEPHONE: (207) 626-HELP (4357)
FAX: (207) 626-4233

John W. Libby
Major General
Commissioner
207-626-4205



Peter W. Ogden
Director
207-626-4464

**Department of Defense, Veterans and Emergency Management
Maine Veterans' Services**

117 State House Station, Augusta, ME 04333-0117

Tel.: 207-626-4464

August 10, 2006

Office of the Director

UPDATE # 2
to
INFORMATION PAPER
Agent Orange/Agent Purple
and
Canadian Forces Base Gagetown

1. While we are very concerned about the potential exposure of our National Guard personnel to Agents Orange, Purple, and White, Maine's veteran community is concerned about what they believe is a bigger issue, the continued exposure to all the herbicides used at CFB Gagetown since 1956. The Canadian military has used 40 different herbicides made up of 24 active ingredients that have two known manufacturing impurities: dioxin and hexachlorobenzene.

a. The chemicals 2,4-D and 2,4,5-T, used to make Agents Orange, Purple, and White were used either individually or in combination in the years prior to 1967 by the Canadian military as herbicides. The chemical 2,4-D was used in 1969 and 1970 along with TORDON 101.

b. Agent White is a 4:1 mixture of 2,4-D and Picloram (also known as TORDON 101). Unlike Agent Orange, Agent White did not contain dioxin. However, it appears the Picloram was contaminated with hexachlorobenzene (HCB) and nitrosamines, both known carcinogens. TORDON 101 and TORDON 10K (pellet version of TORDON 101) were used by the Canadian military between 1965 and 1984 as herbicides.

2. Although all of the chemicals used by the Canadian military other than the Agents Orange, Purple and White (provided by the US Government) were commercially available and approved by the Canadian Government for use as herbicides, it does not negate the fact that military training in the sprayed areas is much different than casual exposure to the public. Maine National Guard soldiers dug foxholes, low crawled, slept in pup tents, and lived in some of these areas for up to 12 days at a time. Guard engineers graded roads where herbicides were used to keep brush growth down on the edge of the road; cleared brush out of and constructed bivouac sites; and conducted demolition and engineer missions all over CFB Gagetown. Artillerymen fired thousands of rounds into the impact areas and the detonation of those rounds put those chemicals back into the air to be dispersed wherever the wind took them.

3. As the Director of the Bureau of Maine Veterans' Services, the State of Maine's primary public advocate for veterans, I asked the Department of Veterans Affairs in writing on June 1, 2006 to review the history of the herbicide spraying at CFB Gagetown and provide us with guidance on how our veterans should proceed if they feel they have illnesses caused by herbicide spraying other than Agent Orange at CFB Gagetown. On July 18, 2006 I received the following response to my letter from the Department of Veterans Affairs.

As you know, the Department of Veterans Affairs (VA) has statutory authority to presumptively recognize a number of diseases for veterans of the Vietnam War as connected to exposure to herbicides used in the Vietnam War and to dioxin contaminant that some of them contained.

These statutorily defined presumptions do not extend to veterans who did not serve in the Vietnam War. Service members exposed to the herbicides used in Vietnam while on active duty outside of Vietnam must show evidence of exposure to be eligible for VA service-connected compensation. That is, a veteran diagnosed with an illness presumptively service-connected to herbicides used in Vietnam would have to show evidence that they were exposed to one of those herbicides while on active duty to support a disability claim.

For all the herbicides not used in Vietnam, a veteran would have to show both 1) that the particular herbicide they were exposed to is known through credible scientific and medical evidence to cause their specific illness, and 2) that they were exposed while on active duty to an amount of the herbicide that would make it at least as likely as not that their illness was caused by their exposure. This is the same standard that applies to any veteran seeking disability compensation from an illness or injury caused by any environmental exposure that occurred while they were on active duty.

4. Presumptive illnesses associated with Agent Orange:

a. The Department of Veterans Affairs (VA) currently offers service-connected compensation for only the following diseases believed to be associated with Agent Orange exposure: **chloracne** (a skin disorder); **porphyria cutanea tarda**, acute or subacute; transient **peripheral neuropathy** (a nerve disorder); **Type 2 diabetes**; **non-Hodgkin's lymphoma**; **chronic lymphocytic leukemia**; **soft tissue sarcoma**; **Hodgkin's disease**; **multiple myeloma**; **prostate cancer**; and **respiratory cancers** (including cancers of the lung, larynx, trachea, and bronchus).

b. If an individual who trained in CFB Gagetown suffers from one of the above presumptive illness attributed to Agent Orange he/she should file a claim with the VA. A veteran who served in Vietnam (boots on the ground) is presumed to have been exposed to Agent Orange because of the large volume and the widespread use of Agent Orange in Vietnam. Individuals who trained at CFB Gagetown will not have the same presumption of exposure given to Vietnam Veterans due to the limited use of Agent Orange at CFB Gagetown. National Guardsmen and women will have to provide credible evidence they were in Gagetown and in the area where Agent Orange was used. Surviving spouses and/or children of National Guard members who trained at CFB Gagetown and died of one of the presumptive illness can also file a claim with the VA.

5. Illnesses not presumed to be associated with Agent Orange:

a. If a veteran suffers from an illness that is not presumptively associated with exposure to Agent Orange but he/she believes that it is attributed to exposure to herbicides while on active duty, they should file a claim with the VA.

b. When filing the claim they will have to provide the following credible evidence to support their claim:

(1) Exposure to a specific herbicide(s) while on active duty to an amount of the herbicide(s) that would make it at least as likely as not that their illness was caused by their exposure.

(2) Current diagnosis of an illness and evidence that the particular herbicide(s) they were exposed to is known through credible scientific and medical evidence to cause their specific illness.

c. The claims process for illnesses not presumed to be attributed to Agent Orange will take time to adjudicate. The better the medical evidence that is submitted with the claim the shorter time it will take to adjudicate the claim.

6. Where to get help in filing a claim with the Veterans Administration or information on Agent Orange/Agent Purple and exposure to herbicides:

a. Maine Veterans' Services (MVS): MVS has offices in seven locations throughout the state staffed by Veterans Advocates that are familiar with Agent Orange and herbicide exposure issues and are ready to assist Maine's National Guard member's with claims assistance.

(1) Bangor	(207) 941-3005	(2) Caribou	(207) 492-1173
(3) Lewiston	(207) 783-5306	(4) Machias	(207) 255-3306
(5) Springvale	(207) 324-1839	(6) Waterville	(207) 872-7846
(7) Togus	(207) 623-5732		

b. Veteran Service Organizations: The following service organizations have service officers familiar with Agent Orange and herbicide exposure issues and are ready to assist in the claims process.

(1) American Legion	(207) 623-5726	Togus Office
(2) Disabled American Veterans	(207) 623-5725	Togus Office
(3) Veterans of Foreign Wars	(207) 623-5723	Togus Office

c. The Department of Veterans Affairs (VA): Veterans wishing to file their own claim with the VA can do so by going to the VA website:<http://www1.va.gov/agentorange/> or calling 1-800-827-1000. The VA stands ready to assist any veteran who wishes to file a claim for service-connected injuries/illnesses.

John W. Libby
Major General
Commissioner
207-626-4205



Peter W. Ogden
Director
207-626-4464

**Department of Defense, Veterans and Emergency Management
Maine Veterans' Services
117 State House Station, Augusta, ME 04333-0117
Tel.: 207-626-4464**

September 27, 2007

Office of the Director

**UPDATE # 3
to
INFORMATION PAPER
Agent Orange/Agent Purple
and
Canadian Forces Base Gagetown**

1. On September 12, 2007 the Canadian Government announced that they would compensate Canadian personnel who were potentially exposed to the Agent Orange/Purple that was sprayed at CFB Gagetown in 1966 and 1967 as part of a test. In their news conference the Canadian Government stated, "compensation is limited to those exposed to the deadly defoliant for three days in 1966 and four days in 1967...recipients must have been diagnosed with one of the 12 illnesses associated with Agent Orange."
2. The decision by the Canadian Government is consistent with current US policy in that the US Department of Veterans Affairs (VA) has statutory authority to presumptively recognize a number of diseases for veterans of the Vietnam War as connected to exposure to herbicides used in the Vietnam War. These statutorily defined presumptions do not extend to veterans who did not serve in the Vietnam War. "*Service members exposed to the herbicides used in Vietnam while on active duty outside of Vietnam must show evidence of exposure to be eligible for VA service-connected compensation. That is, a veteran diagnosed with an illness presumptively service-connected to herbicides used in Vietnam would have to show evidence that they were exposed to one of those herbicides while on active duty to support a disability claim.*"
3. Individuals who trained at CFB Gagetown do not have the same presumption of exposure given to Vietnam Veterans due to the limited use of Agent Orange at CFB Gagetown. Maine National Guard personnel will have to provide credible evidence they were in CFB Gagetown during the time in 1966 and/or 1967 and near the area where Agent Orange was sprayed in order to receive compensation from the US Department of Veterans Affairs (DVA). Under the Status of Forces Agreement, the United States is responsible for the health and welfare of all US military personnel and thus all claims for exposure to Agent Orange at CFB Gagetown will be handled by the USDAV.

4. The first official use of CFB Gagetown as a training site for the Maine National Guard was in 1971. For those Guard personnel who believe they trained at CFB Gagetown in 1966 or 1967 can request their records from the Maine National Guard. (See Update #2 for the contact information and request form)

5. Where to get help in filing a claim with the Veterans Administration or information on Agent Orange and exposure to herbicides. Surviving spouses and/or children of National Guard members who trained at CFB Gagetown in 1966 or 1967 and died of one of the presumptive illness can also file a claim with the VA.

a. Maine Veterans' Services (MVS): MVS has offices in seven locations throughout the state staffed by Veterans Advocates that are familiar with Agent Orange and herbicide exposure issues and are ready to assist Maine's National Guard member's with claims assistance.

(1) Bangor	(207) 941-3005	(2) Caribou	(207) 492-1173
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U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Centers for Disease Control
and Prevention (CDC)
Atlanta GA 30333

July 9, 2012

The Honorable Susan M. Collins
United States Senate
Washington, D.C. 20510

Dear Senator Collins:

Thank you for your June 6, 2012, letter to Dr. Portier regarding Maine veterans possibly being exposed to Agent Orange and other toxic chemicals while training at Canadian Forces Base (CFB) Gagetown.

The Centers for Disease Control and Prevention (CDC) and the Agency for Toxic Substances and Disease Registry (ATSDR) share your concerns about the health of our military veterans and this situation in particular. Dr. Portier has asked his ATSDR scientific staff in to investigate the situation at CFB Gagetown and address your concerns.

As part of this process, ATSDR staff have contacted the Environmental Protection Agency, the Consumer Product Safety Commission, and CDC's National Center for Environmental Health to obtain documents and reports that are essential to a thorough investigation. When ATSDR has reviewed these documents and completed their overall investigation of the possible exposures, we will promptly inform you of the results.

Thank you again for your letter and please be assured that ATSDR will conduct a thorough investigation of the situation at (CFB) Gagetown.

Sincerely,

A handwritten signature in cursive script that reads "Thomas R. Frieden".

Thomas R. Frieden, M.D., M.P.H.
Director, CDC, and
Administrator, ATSDR

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Congress of the United States
House of Representatives
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COMMITTEES:

VETERANS' AFFAIRS
SUBCOMMITTEE ON HEALTH
CHAIRMAN

TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON HIGHWAYS AND TRANSIT
SUBCOMMITTEE ON RAILROAD, PIPELINES
AND HAZARDOUS MATERIALS
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PUBLIC BUILDINGS AND
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ENTREPRENEURSHIP
SUBCOMMITTEE ON FINANCE AND TAX

July 19, 2012

General Allison A. Hickey
Under Secretary for Benefits
Department of Veterans Affairs
810 Vermont Avenue Northwest
Washington, D.C. 20420

Dear Under Secretary Hickey:

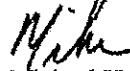
From 1956 to 2006 at CFB Gagetown, the Canadian government used multiple herbicides, and a period of spraying included herbicides with two known manufacturing impurities that have been shown to be human carcinogens. American Reservists, most of whom were from Maine and Massachusetts, trained at CFB Gagetown and have continued concerns that their health was impacted by exposure to both the herbicide approved for commercial use and the residual toxins left behind by Agent Orange/Purple and Agent White.

Despite approval for commercial use of some of these herbicides, there is ambiguity on whether or not the research to date has fully examined the type and level of exposure Reservists experienced. A more comprehensive understanding of the health concerns currently facing the cohort who trained at CFB Gagetown would help address the concerns of these veterans.

To that end, I am seeking more information about the VA's handling of benefit claims related to service at CFB Gagetown. Please provide the number of claims submitted to the VA for illnesses related to exposure at CFB Gagetown and the reason for the denials of these claims. In addition, please provide information on how the claimed incident rate of Agent Orange-associated diseases and illnesses for this cohort compares to a similar population that did not train at CFB Gagetown.

I appreciate your attention to this matter, and please do not hesitate to contact my office for more information.

Sincerely,



Michael H. Michaud
Member of Congress

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PUBLIC BUILDINGS AND
EMERGENCY MANAGEMENT
SMALL BUSINESS
SUBCOMMITTEE ON RURAL AND URBAN
ENTREPRENEURSHIP
SUBCOMMITTEE ON FINANCE AND TAX

July 19, 2012

Lisa P. Jackson, Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Jackson:

I am writing to request that the Environmental Protection Agency provide information on the health risks of repeated exposure to commercial herbicides and other defoliants used at CFB Gagetown starting in 1956. During that time, American service members trained at the base and were exposed to the herbicides.

According to the Canadian Department of National Defence's report, "Environmental Site Assessment of CFB Gagetown," forty different herbicides made up of 24 active ingredients were used, including some with manufacturing impurities. There remains ambiguity as to the potential health impact of these herbicides, including the impurities, Agent Orange/Purple and Agent White. I have heard from veterans who are concerned with how these herbicides interacted with environmental and biological factors and whether or not they would have been potent enough to impact the health of Reservists training at CFB Gagetown in the 1980s.

The Reservists interacted with their environment intensively. Much of the activity included digging in the soil and breathing dust. While the Department of Veterans Affairs maintains that the toxins did not pose a risk, the Reservists' remain concerned that their training exposed them to significant levels of commercially available herbicides and dioxins present in Agent Orange/Purple and Agent White.

Maine National Guard members traveled to Gagetown on a regular basis for artillery training, which included live firing into the impact ranges. This live firing created large dust clouds that were breathed in by the Reservists. Numerous herbicides were used on the impact ranges to control fires that might be caused by artillery rounds impacting in the ranges, and the Reservists believe they were exposed to these herbicides and dioxins as a result of the dust clouds.

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FAX: (207) 873-5717



In light of the extensive use of herbicides and the Reservists unique exposure to these chemicals, I am requesting that the EPA provide information on:

1. The standards of use for the commercial herbicides used at CFB Gagetown and whether amounts sprayed during the training periods and the Reservists' interaction with their surroundings meets those standards; and
2. Whether the Agent Orange/Purple, Agent White and the chemical impurities present at CFB Gagetown during the Reservists' training posed a health risk, specifically when the Reservists' were breathing in contaminated soil disturbed by digging.

Thank you for your attention to this matter, and please do not hesitate to contact me if I can be assistance. Emma Glidden-Lyon on my staff can provide an electronic copy of "Environmental Site Assessment of CFB Gagetown" to help provide the details of herbicide use and training location. She can be reached at 202-225-6306 or emma.gliddenlyon@mail.house.gov.

Sincerely,



Michael H. Michaud
Member of Congress

Posted: 1:05 PM
Updated: 1:08 PM

CDC to probe Maine troops' possible toxin exposure

Maine soldiers may have been exposed to potentially toxic herbicides during training at a Canadian base during the mid-1950s to the mid-1980s.

By [Kevin Millerkmiller@mainetoday.com](mailto:Kevin.Millerkmiller@mainetoday.com)
Washington bureau chief

WASHINGTON — Federal health officials have agreed to investigate whether Maine soldiers were exposed to potentially toxic herbicides — including Agent Orange — while training at a Canadian base during the mid-1950s to the mid-1980s.

In a letter to Sen. **Susan Collins**, R-Maine, the director of the Centers for Disease Control and Prevention pledged to “conduct a thorough investigation of the situation” at the Canadian Forces Base Gagetown in New Brunswick, where herbicides and defoliants have been used for decades.

Dr. Thomas Frieden, director of the CDC, said staff have requested documents and reports to look into the possibility that Maine veterans were exposed to harmful chemicals.

“The Centers for Disease Control and Prevention (CDC) and the Agency for Toxic Substances and Disease Registry (ATSDR) share your concerns about the health of our military veterans and this situation in particular,” Frieden wrote.

Frieden was responding to a June 2012 letter from Collins in which the senator urged the ATSDR to conduct a detailed analysis of the potential health risks for Mainers who trained in Gagetown.

Although Agent Orange — a Vietnam War-era defoliant that causes cancer and severe health problems — was only used for several days at Gagetown in the 1960s, the base continued to use other herbicides and defoliants that have been linked to health problems.

Concerns over troop exposure to potentially toxic herbicides at the Gagetown base are not new. The Canadian government investigated the issue years ago and subsequently agreed to compensate some soldiers who were sickened due to exposure to Agent Orange. Maine officials have also been involved in the issue since at least 2005.

For instance, in an August 2006 “information paper” on the issue, the Maine Department of Defense, Veterans and Emergency Management expressed concerns about the “bigger issue” of Maine National Guard troops' exposure to herbicides other than Agent Orange that were used for decades.

Although those chemicals were approved for use as herbicides by Canadian government, that fact does not negate the reality that the nature of military training could increase the risk of exposure, the paper's authors wrote.

"Maine National Guard soldiers dug foxholes, low crawled, slept in pup tents, and lived in some of these areas for up to 12 days at a time," the paper stated. "Guard engineers graded roads where herbicides were used to keep brush growth down on the edge of the road; cleared brush out of and constructed bivouac sites; and conducted demolition and engineer missions all over CFB Gagetown. Artillerymen fired thousands of rounds into the impact areas and the detonation of those rounds put those chemicals back into the air to be dispersed wherever the wind took them."

Collins said today she was pleased with the CDC's decision to look into the matter.

"Protecting the health of those who were training to protect us is a solemn responsibility from which we must not walk away," Collins said in a statement.

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Check the box to include the list of links referenced in the article.



Congress of the United States

House of Representatives

Washington, DC 20515

August 29, 2012

Honorable Eric K. Shinseki
Secretary
U.S. Department of Veterans Affairs
810 Vermont Avenue, N.W.
Washington, D.C. 20240

Dear Secretary Shinseki:

I am writing because it has come to my attention that the Department of Veterans Affairs (VA) is expected to publish a regulation that could be used to implement Section 105 of P.L. 112-154 (the Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012) but has not first consulted with the National Association of State Veterans Homes (NASVH) regarding the content of such a regulation. NASVH represents all 142 State Veterans Homes in the nation with respect to the implementation of P.L. 112-154 and any associated regulations:

As you know, P.L. 112-154 requires the VA to pay fully for the care of service-connected disabled veterans residing at State Veterans Homes by agreeing with such State Veterans Homes on a national system of contracts or provider agreements to make such payments possible. This national system is intended to be established only after consultation with State Veterans Homes. Section 105 of P.L. 112-154 states:

Payment under each contract (or agreement) between the Secretary and a State home... shall be based on a methodology developed by the Secretary in consultation with the State home, to adequately reimburse the State home for the care provided by the State home under the contract (or agreement).

State homes are significantly under compensated for the care of service-connected disabled veterans, and Congress has made the negotiation of contracts and provider agreements under P.L. 112-154 a top priority for the VA. The Joint Explanatory Statement issued by Congress at the time of passage of the law emphasizes this and again refers to the need to negotiate with State Veteran Homes concerning the language of contracts and provider agreements:

The Committees note that State homes are significantly under compensated by the current reimbursement framework. VA has been aware of and actively assisting with the development of these provisions. The Committees expect VA to make the negotiation and execution of these contracts [or provider agreements] a top priority – and further expect that no State home will be without a contract [or provider agreement] on the date that this provision goes into effect. This includes the immediate development of the contract [or provider agreement] language required under subsection (c)(2) of this section of the Compromise Agreement.

The Joint Explanatory Statement goes on to detail the degree of negotiations that Congress expects to see between the State homes and VA to implement P.L. 112-154:

The Committees further expect that VA and the States homes will negotiate equitably and agree upon several elements of all contracts or agreements under this section. First, that reimbursement will be not only adequate but will also reflect the reasonable cost of care provided. Second, that the services for which VA will make reimbursement will be mutually acceptable. Finally, that the contracts [or provider agreements] will provide appropriately for updating, revising, or renegotiating the contracts [or provider agreements] as payment rates or other circumstances change.

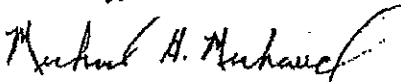
Since the enactment of the law, my understanding is that the VA has not met with representatives of NASVH to begin detailed negotiations on the implementation of the law and the texts of the required provider agreements and contracts, despite repeated requests. In addition, I am concerned to learn that the VA is considering publishing a proposed regulation applicable to private nursing homes that would also be used by the VA to implement P.L. 112-154 without first consulting with NASVH on the contents of such a regulation.

Such conduct by VA is contrary to the requirements of P.L. 112-154 and its legislative history, and is not productive in resolving the issues addressed by the law.

As P.L. 112-154 clearly requires the VA to consult directly with State Veterans Homes and engage in detailed negotiation, I ask that the VA suspend any activities to publish a regulation that would be used to implement the law until such consultation has occurred. Specifically, the Department must first complete negotiations with the State Veterans Homes on the contents of such a regulation and the texts of the national provider agreements and contracts required by P.L. 112-154.

I appreciate your attention to this serious matter and look forward to working with you to ensure that our veterans have access to the best possible long term care.

Sincerely,



Michael H. Michaud
Member of Congress

ATSDR Review of Gagetown Herbicide Spray Programs

Canadian Forces Base
Gagetown, New Brunswick, Canada

January 30, 2013

Eastern Branch
Division of Community Health Investigations
Agency for Toxic Substances and Disease Registry

Introduction:

Senator Susan M. Collins (R–Maine) on June 6, 2012, requested that the Director of the Agency for Toxic Substances and Disease Registry (ATSDR) review a report completed on behalf of the Canadian Department of National Defense. The report concerned the use of Agent Orange and other commercial herbicides at the Canadian Forces Base in Gagetown, New Brunswick, Canada (CFB Gagetown). Senator Collins asked ATSDR to assess whether the concentrations and quantity of 2,3,7,8-tetrachlorodibenzo -p- dioxin and other herbicides used at CFB Gagetown could lead to health problems among those who were exposed to it over time. Senator Collins also asked ATSDR to evaluate whether the concentrations of contaminants at CFB Gagetown could be considered a past public health hazard, according to Environmental Protection Agency (EPA) guidelines.

ATSDR agreed to evaluate the available information concerning the use of herbicides at CFB Gagetown. Senator Collins' request included a copy of a field sampling protocol planned for CFB Gagetown. The copy did not contain sufficient information to support a health conclusion. In undertaking research to meet Senator Collins' request, ATSDR found a complete listing of reports related to the use of herbicides at CFB Gagetown at www.forces.gc.ca/site/reports-rapports/defoliant/index-eng.asp. The full versions of the reports, however, were unavailable online. In October 2012, ATSDR obtained electronic versions of all the complete reports from the Directorate of Force Health Protection, Canadian Forces Health Services Group Headquarters (CFHSG).

ATSDR reviewed the reports to determine whether the methods used and conclusions reached were consistent with the approach that ATSDR health assessors use when evaluating human health risks posed by exposure to environmental contaminants. These reports collectively will be referred to hereafter as "the Canadian report." The following is a summary of ATSDR's findings.

ATSDR Summary

Conclusion 1: The concentrations of contaminants at CFB Gagetown do not represent a public health hazard now or in the past to members of the U.S. military/National Guard who trained at this Canadian base or to recreational users who access the site now. This finding also applies to soldiers who trained during the three years following the herbicide testing period, 1966–1967.

Basis for Conclusion 1: Members of the U.S. military or the National Guard who trained at CFB Gagetown, in addition to non-military personnel who currently visit the base, may have been exposed to herbicides. The levels to which they may have been exposed, however, were below a level of concern for both cancer health effects and non-cancer health effects. There is little to no increased risk of adverse effects on blood-forming tissues, the liver, and the central nervous system, and the risk of skin disorders or developmental effects is not enough to represent a public health hazard.

Conclusion 2: The methods used in the Canadian report, provided by CFHSG to evaluate the public health implications of past herbicide exposures, were consistent with ATSDR guidelines.

Basis for Conclusion 2: ATSDR conducted a detailed review of the Canadian report, focusing on the following sections: herbicide applications, field sampling techniques, quality assurance and quality control procedures, exposure pathways, the receptor population, comparison values, and cancer slope factors. The methods used in the report were all consistent with those typically used by ATSDR in the evaluation of the public health implications of human exposure.

Review of "Canadian Forces Base Gagetown Herbicide Spray Programs 1952–2004 Fact-Finder's Report (and related appendices) by Dr. Dennis Furlong. August 2007"

ATSDR compared the data and methodology used by the Canadian government to those used by ATSDR. The purpose of the comparison was to determine whether the approaches used in the Canadian report were consistent with those that ATSDR typically uses when reviewing environmental data and making public health determinations.

Purpose of the Canadian Report

In August 2005, the Canadian government commissioned a study to review the public health implications of the possible exposure of soldiers and non-military personnel to one or more herbicides—Agent Orange, Agent Purple, and Agent White—used or tested on the base from 1966 to 1967 and the possible exposure to any herbicide used or tested on the base from 1956 to 2004.

Herbicide Applications

In 1966 and 1967, various defoliants, including Agent Orange, Agent Purple, and Agent White, were tested at CFB Gagetown, New Brunswick, Canada. The on-base test sites were located in a remote, dense, undisturbed 83-acre forest containing both deciduous and conifer trees.

The Canadian military base and the United States Department of the Army conducted tests to determine how best to remove vegetation in training areas. These tests involved the application of certain herbicides.

Table 1.
Types of herbicides tested by year for the period from 1966 through 1967 (Furlong 2007)

Year	Herbicides tested	Number of days tested
1966	Agent Orange Agent Purple	3 days

1967	Agent Orange Agent White	4 days
------	-----------------------------	--------

The 1966 test site was located on a four mile by 1,200 foot area. The herbicides were applied to 116 plots, each consisting of a 200 by 600 foot section with a 100 foot buffer zone. The 1967 herbicide applications were applied to 50 plots, each consisting of a 200 by 600 foot section with a 200 foot buffer zone.

The herbicides were applied by helicopters flown low over the tops of the trees. The spraying was applied during low- to no-wind conditions. (Furlong 2007)

Dioxins

The active ingredients of Agent Orange and Agent Purple contained some impurities. These impurities included 2,3,7,8-tetrachlorodibenzo -p-dioxin and similar compounds known as polychlorinated dibenzodioxins. This review and the Canadian report refer to these compounds as PCDDs.

Exposures for three years following the 1966–1967 herbicide applications

Estimated Soil Concentrations

No soil samples were collected during the 1966–1967 herbicide test applications. The data that the Canadian report used to estimate the concentrations of herbicides in those applications were determined by use of historic information on herbicide applications, as well as environmental fate and transport modeling. The reports predicted herbicide concentrations (including PCDDs) in surface soil by use of methods provided by the EPA Risk Assessment Protocol for Hazardous Waste Combustion Facilities, in combination with various estimates of chemical-specific soil half-life data and first-order rate law. The predicted soil PCDD concentration ranged from 6.5×10^{-5} to 7.6×10^{-4} mg/kg.

Observation: The predicted PCDD concentrations in surface soil appear correct, and the exposure reconstruction methods used are consistent with ATSDR and EPA exposure assessment methods.

Current Exposures (2005–present)

In order to determine whether the levels of herbicides in the soil represent a current health concern, the Canadian report contains detailed information on field sampling conducted in 2005.

Field Sampling from 2005

Nearly 38 years after Agent Orange, Agent Purple, and Agent White herbicides were tested at the base, environmental field sampling was conducted by Jacques Whiteford

Limited. Sampling occurred between September 28, 2005, and November 9, 2005. A total of 296 surface soil samples (119 discrete and 177 composites), 30 sediment samples, 30 surface water samples, 12 groundwater samples, and 81 composite vegetation samples were sent for analysis of various chemicals on the basis of historic herbicide applications (Furlong 2007).

Jacques Whiteford Limited collected soil samples from 0–10 centimeters in depth (about 0 to 4 inches), excluding root material and vegetation. This sample depth was based on information from a contamination survey in Vietnam, where Agent Orange was applied during the Vietnam War. The concentration of PCDDs in the soil ranged from a low of 1×10^{-8} to a high of 4×10^{-6} mg/kg. This highest concentration was found in samples from area APEC 2, where Agent Orange and Agent White were tested (Furlong 2007).

Observation: This section of the Canadian report is informative because it contains clear statements regarding sampling methods and the data derived from them. Those sampling methods and the data are typical of what ATSDR would use to evaluate the public health implications of the concentrations.

Quality Assurance and Quality Control (QA/QC) of Environmental Sampling

The field sampling conducted by Canada used standard QA/QC procedures, including trip blank, field blank, equipment rinsate blanks, and field duplicates. These standard, appropriate procedures result in data that contain a high degree of reliability.¹ The Canadian report discusses composite sampling used to ensure that the targeted area was adequately represented. Analytical results of these samples allow a determination of the quality of the sampling and shipping procedures. For example, if contaminants are found in a field blank, the integrity of the soil samples may be questionable.

Observation: It is not clear whether the laboratory that analyzed the samples used QA/QC approaches similar to those used by EPA.

Public Human Exposure Assessment—Exposure Pathways

The exposure pathways used in the Canadian report included the following:

- Inadvertent ingestion of soil.
- Dermal contact with soil.
- Inhalation of soil particulates.

¹ Trip blank: samples that are analyzed to measure the amount of chemicals that are present as a result of the transportation procedure (collected on a daily basis).

Field blank: samples that are analyzed to measure the amount of chemicals that are present as a result of the collection procedure (collected on a daily basis).

Equipment rinsate blanks: used to provide an indication of the effectiveness of the equipment decontamination procedures.

Field duplicates: used to measure the reproducibility of the data obtained from samples in the field.

- Inadvertent ingestion of sediment.
- Dermal contact with sediment.
- Inadvertent ingestion of groundwater.
- Dermal contact with groundwater.
- Inadvertent ingestion of surface water.
- Dermal contact with surface water.
- Human ingestion of deer or moose.
- Human ingestion of fish.
- Human ingestion of berries.

Observation: The exposure pathways listed are consistent with those used by ATSDR.

Public Human Assessment Exposure—Receptor Population

One population that may have been exposed to the herbicides was military personnel who trained at the base during 1966 and 1967. The Canadian report authors assumed that military personnel trained in close proximity to the spray test areas during the time of the spraying:

Historical records indicate that lands affected by herbicide applications may have been used for training military personnel. These receptors may have spent extended periods of time training within these areas. It was assumed that military training operations commenced the following year on the exact plot locations of the 1966 spray campaigns. Military Trainees were assumed to spend 2 months of the year at the 1966 spray campaign site. The exposure duration of 2 months was used. It was assumed that individuals . . . [came] into contact with contaminants of concern via three main exposure pathways including: incidental soil/dust ingestion, direct dermal contact with surface soils, and ingestion of wild berries. Assumed exposures lasted for 3 years... Incidental soil ingestion rate was estimated to be 100 gram per day. [the human body half-life for PCDD (the amount of time it takes for PCDD in the body to reduce in half) was estimated to be 7.1 years...The soil half-life for PCDD (the amount of time it takes the amount of PCDD in soil to reduce in half) was estimated to range from 1 to 3 years] (Furlong 2007).

Observation: The approach used in this report section is typical of the approach used by ATSDR in evaluating the public health implications of any exposures, and the exposure reconstruction methods used are consistent with those used in ATSDR and EPA exposure assessments.

Comparison Values and Cancer Slope Factors

As part of the evaluation of exposure to 2,3,7,8-tetrachlorodibenzo -p-dioxin-like congeners, the Canadian report used comparison values, including: the EPA reference doses (RfDs), the EPA Region IX Preliminary Remediation Goals (PRGs), the EPA Region III Risk-Based Concentrations (RBCs), the EPA Cancer Slope Factors, and the World Health Organization Toxicity Equivalency Factors (TEFs). The Canadian report

modified some EPA values to be more conservative and protective of human health (the values were multiplied by 0.2). The report conducted cancer risk estimations by use of EPA cancer slope factors.

Observation: The comparison values (RfDs, PRGs, RBC, cancer slope factors, and TEFs) used in the Canadian report are consistent with those typically used by ATSDR.

The Canadian Report Conclusion

The overall conclusion of the Canadian report states:

Long-term or chronic risk estimates for military trainees who may have inadvertently trained in either the 1966 or 1967 spray areas more than a year following the spray applications were all less than levels that would be indicative of a concern ([hazard quotient²] HQ < 1); as a result, no dioxin related adverse health risks are predicted for military trainees potentially exposed in this manner (Furlong 2007).

The cancer health risk estimations in the Canadian report found no excess lifetime risk estimate (it estimated less than one case in 100,000 people similarly exposed).

ATSDR conducted a detailed review of the report, focusing on herbicide applications, field sampling techniques, quality assurance and quality control procedures, exposure pathways, receptor population, comparison values, and cancer slope factors. Procedures used in all these report sections were consistent with those typically used by ATSDR in evaluating the public health implications of human exposure.

Observation: The report's conclusions are supported by the risk assessment methods used in the report. ATSDR finds no reason to reject the conclusions regarding the exposure scenarios considered. ATSDR assumes that members of the U.S. military who were at the base in 1966 and 1967 had exposure scenarios similar to those of the military trainees.

Limitations of this ATSDR Assessment of the Canadian Report

ATSDR does not have specific information regarding the deployment of U.S. military or National Guard members at CFB Gagetown. In evaluating the Canadian report, ATSDR made two assumptions:

² The hazard quotient (HQ) is the ratio of the potential exposure to the substance and the level at which no adverse effects are expected. If the HQ is calculated to be equal to or less than 1, then no adverse health effects are expected as a result of exposure. If the HQ is greater than 1, then adverse health effects are possible. The HQ cannot be translated to a probability that adverse health effects will occur, and the HQ is unlikely to be proportional to risk. It is especially important to note that an HQ exceeding 1 does not necessarily mean that adverse effects will occur.

- (1) That U.S. servicemen and women who deployed for training to CFB Gagetown experienced conditions similar to those encountered by members of the Canadian forces who trained at the base during the same time period.
- (2) The information obtained electronically (including the complete set of the reports) is of sufficient quality to be used to assess the potential risk of persons (Canadian or American) who were deployed to CFB Gagetown.

ATSDR's conclusions are based upon an assumption that the exposure estimates developed in the Canadian report are reasonably accurate. As noted in the Canadian report, "The level of uncertainty resulting from ... activities, some of which occurred more than 50 years ago, coupled with the uncertainties inherent in standard forward-looking risk assessment, is very large. As a result, the expectations regarding the level of precision that this risk assessment exercise can produce should be limited" (Furlong 2007).

Reference

Furlong. 2007. CFB Gagetown Herbicide Spray Programs 1952–2004 Fact-Finder's Letter Report [including appendices identified as Task 2B-Stage 3, Task 3A-1, Task 3A-2] from Dennis Furlong to Peter MacKay, Minister, Canadian Department of National Defence [sic], Ottawa, Ontario, Canada. August 27, 2007.

SUSAN M. COLLINS
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United States Senate

WASHINGTON, DC 20510-1904

COMMITTEES:
SPECIAL COMMITTEE
ON AGING
RISK AND HUMAN
APPROPRIATIONS
SELECT COMMITTEE
ON INTELLIGENCE

March 29, 2013

Hon. Eric Shinseki, Secretary
U.S. Department of Veterans Affairs
810 Vermont Avenue NW
Washington, D.C. 20420

Dear Secretary Shinseki:

It was a pleasure to meet with you last week. As I mentioned during our meeting, I remain concerned that many veterans in Maine who trained at Canadian Forces Base (CFB) Gagetown may have been exposed to harmful substances that were sprayed there beginning in 1956.

There remains a considerable degree of dispute as to the potential harm that exposure to toxic residual particles used in defoliants at CFB Gagetown beginning in 1956 may have had on service members who trained there. A recent review by the Centers for Disease Control and Prevention (CDC) of the report, "*Environmental Site Assessment of CFB Gagetown*," which was commissioned on behalf of the Canadian Department of National Defense, concluded that the methodology used in the report was consistent with CDC guidelines; however, the CDC noted the limitations of its own conclusions, which relied on the assumptions and uncertainties included in the original report. Moreover, the CDC reiterated the following statement from the Canadian report:

The level of uncertainty resulting from ... activities, some of which occurred more than 50 years ago, coupled with the uncertainties inherent in standard forward-looking risk assessment, is very large. As a result, the expectations regarding the level of precision that this risk assessment exercise can produce should be limited.

For this reason, I request that you commission an independent study to examine potential health risks to veterans, including Maine National Guardsmen, who may have been exposed to harmful toxins while training at CFB Gagetown. Such a study should be carried out by an independent organization with expertise in the conduct of similar studies. I further request that the Department consult with Maine veterans who served at CFB Gagetown in carrying out this request.

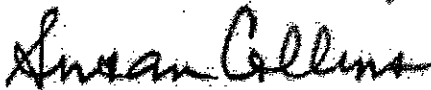
In addition, I request that you establish a registry within the Department of Veterans Affairs to track individuals who may have been exposed to harmful substances at CFB Gagetown and who have previously or subsequently:

- 1) Applied for VA healthcare services;
- 2) Filed claims for compensation on the basis of any disability which may be associated with such service;

- 3) Had claims filed by survivors of such veterans for dependency and indemnity compensation; or,
- 4) Requested a health examination, including appropriate diagnostic tests, for inclusion in the Registry.

I respectfully request that your staff meet with my staff no later than April 29, 2013, to discuss these requests. Thank you for your prompt consideration of these concerns and for your service to America's veterans. Should you have any questions, please feel free to contact me or have your staff contact Jared Golden of my staff at (202) 224-4395 or jared_golden@collins.senate.gov.

Sincerely,



Susan M. Collins
United States Senator

Douglas A. Farnham
Brigadier General
Commissioner (207)
430-6000



Adria O. Horn
Director
(207) 430-6035

**Department of Defense, Veterans and Emergency Management
Bureau of Veterans' Services
117 State House Station, Augusta, Maine 04333-0117**

**CFB Gagetown & Agents Orange/Purple
Questionnaire**

The Bureau of Veterans' Services would like your help in gathering data to assist us in identifying individuals that served in Gagetown. We need to know if you were ever at Gagetown while serving in the National Guard, when you were there and any health issues that may have been caused by your time at Gagetown.

If you would take a moment and answer the following questions it would be greatly appreciated.

1. Full Name
2. Date of Birth
3. When did you serve in the National Guard?
4. What year and unit were you with when you went to Gagetown? (Please list all times that you went to Gagetown)
5. Have you filed a claim for compensation with the US Department of Veterans Affairs?
6. Do you have any current illnesses that you feel may be connected to your time at Gagetown? If yes, please list them.
7. Are you currently receiving any health care from the US Department of Veterans Affairs?

In case we need to contact you, please provide the following information:

Day Time Tel: _____ Email Address: _____

**PLEASE EITHER EMAIL ANSWERS TO QUESTIONS ABOVE OR IF YOU PREFER,
PLEASE PRINT, COMPLETE AND MAIL THIS QUESTIONNAIRE FORM
(EMAIL ADDRESS AND MAILING ADDRESS SHOWN BELOW)**

Email: MaineBVS@maine.gov

**Mail: Maine Bureau of Veterans' Services
117 State House Station
Augusta, ME 04333-0117**

Thank you for taking the time to complete this questionnaire.



CANADA

CONSOLIDATION

CODIFICATION

**Testing of Unregistered US
Military Herbicides, including
Agent Orange, at CFB
Gagetown Ex Gratia Payments
Order**

**Décret concernant le versement
de paiements à titre gracieux à
l'égard des essais d'herbicides
non homologués utilisés par
l'armée américaine, notamment
l'agent orange, à la base des
Forces canadiennes Gagetown**

SI/2007-87

TR/2007-87

Current to October 17, 2023

À jour au 17 octobre 2023

Last amended on December 9, 2010

Dernière modification le 9 décembre 2010

OFFICIAL STATUS OF CONSOLIDATIONS

Subsections 31(1) and (3) of the *Legislation Revision and Consolidation Act*, in force on June 1, 2009, provide as follows:

Published consolidation is evidence

31 (1) Every copy of a consolidated statute or consolidated regulation published by the Minister under this Act in either print or electronic form is evidence of that statute or regulation and of its contents and every copy purporting to be published by the Minister is deemed to be so published, unless the contrary is shown.

...

Inconsistencies in regulations

(3) In the event of an inconsistency between a consolidated regulation published by the Minister under this Act and the original regulation or a subsequent amendment as registered by the Clerk of the Privy Council under the *Statutory Instruments Act*, the original regulation or amendment prevails to the extent of the inconsistency.

LAYOUT

The notes that appeared in the left or right margins are now in boldface text directly above the provisions to which they relate. They form no part of the enactment, but are inserted for convenience of reference only.

NOTE

This consolidation is current to October 17, 2023. The last amendments came into force on December 9, 2010. Any amendments that were not in force as of October 17, 2023 are set out at the end of this document under the heading "Amendments Not in Force".

CARACTÈRE OFFICIEL DES CODIFICATIONS

Les paragraphes 31(1) et (3) de la *Loi sur la révision et la codification des textes législatifs*, en vigueur le 1^{er} juin 2009, prévoient ce qui suit :

Codifications comme élément de preuve

31 (1) Tout exemplaire d'une loi codifiée ou d'un règlement codifié, publié par le ministre en vertu de la présente loi sur support papier ou sur support électronique, fait foi de cette loi ou de ce règlement et de son contenu. Tout exemplaire donné comme publié par le ministre est réputé avoir été ainsi publié, sauf preuve contraire.

[...]

Incompatibilité – règlements

(3) Les dispositions du règlement d'origine avec ses modifications subséquentes enregistrées par le greffier du Conseil privé en vertu de la *Loi sur les textes réglementaires* l'emportent sur les dispositions incompatibles du règlement codifié publié par le ministre en vertu de la présente loi.

MISE EN PAGE

Les notes apparaissant auparavant dans les marges de droite ou de gauche se retrouvent maintenant en caractères gras juste au-dessus de la disposition à laquelle elles se rattachent. Elles ne font pas partie du texte, n'y figurant qu'à titre de repère ou d'information.

NOTE

Cette codification est à jour au 17 octobre 2023. Les dernières modifications sont entrées en vigueur le 9 décembre 2010. Toutes modifications qui n'étaient pas en vigueur au 17 octobre 2023 sont énoncées à la fin de ce document sous le titre « Modifications non en vigueur ».

TABLE OF PROVISIONS**Testing of Unregistered US Military Herbicides,
including Agent Orange, at CFB Gagetown Ex Gratia
Payments Order**

- 1 Interpretation
- 2 Authorization
- 4 Application
- 5 Cessation of Payments
- 6 Review
- 7 No Crown Liability
- 8 Exclusion

TABLE ANALYTIQUE**Décret concernant le versement de paiements à titre
gracieux à l'égard des essais d'herbicides non
homologués utilisés par l'armée américaine,
notamment l'agent orange, à la base des Forces
canadiennes Gagetown**

- 1 Définitions
- 2 Autorisation
- 4 Demande
- 5 Cessation de paiement
- 6 Révision
- 7 Immunité de l'état
- 8 Exclusion

Registration
SI/2007-87 October 3, 2007

OTHER THAN STATUTORY AUTHORITY

Testing of Unregistered US Military Herbicides, including Agent Orange, at CFB Gagetown Ex Gratia Payments Order

P.C. 2007-1326 September 10, 2007

Her Excellency the Governor General in Council, on the recommendation of the Minister of Veterans Affairs, hereby makes the annexed *Testing of Unregistered US Military Herbicides, including Agent Orange, at CFB Gagetown Ex Gratia Payments Order*.

Enregistrement
TR/2007-87 Le 3 octobre 2007

AUTORITÉ AUTRE QUE STATUTAIRE

Décret concernant le versement de paiements à titre gracieux à l'égard des essais d'herbicides non homologués utilisés par l'armée américaine, notamment l'agent orange, à la base des Forces canadiennes Gagetown

C.P. 2007-1326 Le 10 septembre 2007

Sur recommandation du ministre des Anciens Combattants, Son Excellence la Gouverneure générale en conseil prend le *Décret concernant le versement de paiements à titre gracieux à l'égard des essais d'herbicides non homologués utilisés par l'armée américaine, notamment l'agent orange, à la base des Forces canadiennes Gagetown*, ci-après.

Testing of Unregistered US Military Herbicides, including Agent Orange, at CFB Gagetown Ex Gratia Payments Order

Décret concernant le versement de paiements à titre gracieux à l'égard des essais d'herbicides non homologués utilisés par l'armée américaine, notamment l'agent orange, à la base des Forces canadiennes Gagetown

Interpretation

1 The following definitions apply in this Order.

Minister means the Minister of Veterans Affairs. (*ministre*)

primary caregiver in relation to an individual, means the adult person who, immediately before the individual died,

(a) was primarily responsible, without remuneration, for ensuring that care was provided to the individual; and

(b) for a continuous period of at least one year, resided in the principal residence of the individual and maintained the individual or was maintained by the individual. (*principal donneur de soins*)

Authorization

2 The Minister is authorized, on application, to make an *ex gratia* lump sum payment of \$20,000 to any individual who meets the following conditions:

(a) between June 1, 1966 and June 30, 2011, the individual is diagnosed with any one or more of the following medical conditions:

- (i) chronic lymphocytic leukemia (CLL),
- (ii) soft tissue sarcoma,
- (iii) non-Hodgkin's lymphoma,
- (iv) Hodgkin's disease,
- (v) chloracne,
- (vi) respiratory cancers (of the lung/bronchus, larynx or trachea)
- (vii) prostate cancer,

Définitions

1 Les définitions qui suivent s'appliquent au présent décret.

ministre Le ministre des Anciens Combattants. (*Minister*)

principal donneur de soins Adulte qui, au moment du décès de la personne :

a) d'une part, était la principale personne à veiller, sans rémunération, à ce qu'elle reçoive les soins voulus;

b) d'autre part, pendant au moins un an, avait résidé de façon continue dans sa résidence principale et avait subvenu à ses besoins ou était à sa charge. (*primary caregiver*)

Autorisation

2 Le ministre est autorisé, sur présentation d'une demande, à verser un paiement de 20 000 \$ à titre gracieux à toute personne qui satisfait aux exigences suivantes :

a) entre le 1^{er} juin 1966 et le 30 juin 2011, un diagnostic selon lequel la personne est atteinte de l'une ou plusieurs des affections médicales ci-après est confirmé :

- (i) leucémie lymphoïde chronique (LLC),
- (ii) sarcome des tissus mous,
- (iii) lymphome non hodgkinien,
- (iv) maladie de Hodgkin,
- (v) chloracné,
- (vi) cancer des voies respiratoires (du poumon et des bronches, du larynx ou de la trachée),

- (viii) multiple myeloma,
- (ix) acute and subacute (or early onset) transient peripheral neuropathy,
- (x) porphyria cutanea tarda,
- (xi) type 2 diabetes (mellitus), and
- (xii) spina bifida; and

(b) at any time from June to September of either 1966 or 1967 the individual or, in the case of an individual diagnosed with spina bifida, a biological parent of the individual

- (i) worked or lived at CFB Gagetown,
- (ii) was posted to or trained at CFB Gagetown, or
- (iii) resided in a community, as determined by the Minister, any portion of which lay within 5 km of the perimeter of CFB Gagetown.

SI/2010-96, s. 1.

3 (1) If an individual dies before receiving payment, the payment shall be made to the primary caregiver of the individual, if any.

(2) If an individual dies before making an application, the primary caregiver may apply for the payment on behalf of the individual.

(3) If the primary caregiver dies before receiving payment, no payment shall be made.

Application

4 An application for an *ex gratia* payment must be made in the manner approved by the Minister no later than June 30, 2011, unless circumstances beyond the control of the applicant necessitate a longer period. The application must be supported by any evidence that the Minister considers necessary.

SI/2010-96, s. 2.

- (vii) cancer de la prostate,
- (viii) myélomes multiples,
- (ix) neuropathie périphérique transitoire aiguë et subaiguë (ou d'apparition précoce),
- (x) porphyrie cutanée tardive,
- (xi) diabète de type 2 (diabète sucré),
- (xii) spina-bifida;

b) pendant la période de juin à septembre 1966 ou de juin à septembre 1967, la personne, ou dans le cas où elle est atteinte de spina-bifida, son parent biologique :

- (i) soit travaillait ou vivait à la base des Forces canadiennes Gagetown,
- (ii) soit était en poste ou a reçu de la formation à la base des Forces canadiennes Gagetown,
- (iii) soit résidait dans une collectivité, déterminée par le ministre, dont une partie se trouvait à au plus cinq kilomètres du périmètre de la base des Forces canadiennes Gagetown.

TR/2010-96, art. 1.

3 (1) Si la personne décède avant de recevoir le paiement, celui-ci est versé au principal donneur de soins, le cas échéant.

(2) Si la personne décède avant de présenter la demande, le principal donneur de soins peut la présenter en son nom.

(3) Si le principal donneur de soins décède avant de recevoir le paiement, aucun paiement ne sera versé.

Demande

4 La demande de paiement à titre gracieux doit être présentée au ministre, de la manière approuvée par celui-ci au plus tard le 30 juin 2011, à moins que des circonstances indépendantes de la volonté du demandeur ne l'empêchent de respecter ce délai. La demande doit être accompagnée de toute preuve que le ministre juge pertinente.

TR/2010-96, art. 2.

Cessation of Payments

5 The Minister shall cease to make payments under this Order on December 30, 2011.

SI/2010-96, s. 3.

Review

6 (1) An applicant who is dissatisfied with a decision may request, in writing, a review by the Minister within 60 days after receipt of the decision, unless circumstances beyond the control of the applicant necessitate a longer period.

(2) An applicant who is dissatisfied with a decision made on review may request, in writing, a further review of the decision within 60 days after receipt of the first level review decision, unless circumstances beyond the control of the applicant necessitate a longer period.

No Crown Liability

7 A payment made under this Order does not constitute an admission of liability on the part of the Crown.

Exclusion

8 This Order does not apply to members of foreign military units.

Cessation de paiement

5 Le ministre n'effectue aucun paiement sur le fondement du présent décret après le 30 décembre 2011.

TR/2010-96, art. 3.

Révision

6 (1) Si le demandeur n'est pas satisfait de la décision rendue à son égard, il peut en demander par écrit la révision au ministre dans les soixante jours suivant la date à laquelle il en a été, à moins que des circonstances indépendantes de sa volonté ne l'empêchent de respecter ce délai.

(2) Si le demandeur n'est pas satisfait de la décision rendue par suite de la révision, il peut en demander par écrit la révision dans les soixante jours suivant la date à laquelle il en a été avisé, à moins que des circonstances indépendantes de sa volonté ne l'empêchent de respecter ce délai.

Immunité de l'état

7 Les paiements versés au titre du présent décret ne constituent en aucune façon une reconnaissance de responsabilité de la part de l'État.

Exclusion

8 Le présent décret ne s'applique pas aux membres des unités militaires étrangères.



Maine State Legislature
OFFICE OF POLICY AND LEGAL ANALYSIS

www.mainelegislature.gov/opla
13 State House Station, Augusta, Maine 04333-0013
(207) 287-1670

BILL ANALYSIS

TO: Members, Joint Standing Committee on Veterans and Legal Affairs
FROM: Lynne Caswell, Legislative Analyst
DATE: May 1, 2023
RE: **LD 1597, Resolve, to Establish the Gagetown Harmful Chemical Study Commission**
(President Jackson)

Bill Summary

This resolve establishes the Gagetown Harmful Chemical Study Commission to study the impacts of exposure to harmful chemicals on veterans who served at the Canadian military support base in Gagetown, New Brunswick, Canada.

Testimony

This section is not intended to reflect all comments and may include unintentional errors or omissions. Written testimony is available online

Sponsor: President Jackson

Proponents: David Donovan

Opponents: none

NFNA: DVEM by Dave Richmond

Written only: Elaine Donovan; James Gehring; Donald Page (all from Aroostook Veterans Alliance)

Additional Information / Information Requests

- ✓ Joint Rule 353 governs legislative studies – See Attachment A
- ✓ Gagetown information – See documents after Attachment A

Preliminary Fiscal Impact Statement

None provided as of this date.

Brief Historical Summary of Gagetown defoliant application, studies conducted, and action taken from 2005 to 2013.

Agent Orange was a mixture of chemicals containing equal amounts of the two active ingredients, 2, 4-D and 2,4,5-T. The name, "Agent Orange," came from the orange stripe on the 55-gallon drums in which it was stored. Other herbicides, including Agent Purple a less well known but more toxic agent... Since the initial use of Agent Orange, significant studies and validation of effects on personnel have resulted in various national programs and assistance for affected veterans. The Department of Veterans Affairs (VA) currently maintains an active VA Agent Orange Registry and provides medical treatment or disability compensation to Vietnam veterans.

(From VA website)

Agent Orange presumptive diseases:

Cancers caused by Agent Orange exposure

- *Bladder cancer, Chronic B-cell leukemia, Hodgkin's disease, Multiple myeloma, Non-Hodgkin's lymphoma, Prostate cancer, Respiratory cancers (including lung cancer), Some soft tissue sarcomas.*

Other illnesses caused by Agent Orange exposure

- *AL amyloidosis, Chloracne (or other types of acneiform disease like it and some must have been at least 10% within one year after exposure), Diabetes mellitus type 2, High blood pressure (hypertension), Hypothyroidism, Ischemic heart disease, Monoclonal gammopathy of undetermined significance (MGUS), Parkinsonism, Parkinson's disease, Peripheral neuropathy, early onset, (at least 10% disabling within 1 year of herbicide exposure), Porphyria cutanea tarda (this condition must be at least 10% disabling within 1 year of herbicide exposure).*

In June of 2005, the Canadian Department of National Defense (DND) announced that for three days in June 1966 (14-16) and four days in June 1967 (21-24), testing of various defoliants, including Agent Orange and Agent Purple, took place over a limited portion of the Canadian Forces Base (CFB) Gagetown, New Brunswick. Additionally, according to the Canadian DND and the Canadian Forces (CF) website, "the testing was conducted under strictly controlled conditions, ensuring minimal spray drift, in an area of the base that was difficult to access," "the testing did not involve wide-spread spraying," and "these tests are the only known instances, based on available information, in which Agents Orange and Purple were sprayed at CFB Gagetown." According to the Canadian DND and the Canadian Forces, the testing area consisted of two small areas covering approximately 83 acres of the 180,000 plus acres of CFB Gagetown.

The Maine Agent Orange/Purple Registry: In July of 2005, Maine Bureau of Veterans' Services and DVEM established an informational page on MBVS website with updates and reports concerning potential Gagetown exposure. MBVS also began a registry of individuals who served at Gagetown and self reported to MBVS. (total list size was 413). In addition, MBVS published a survey that Gagetown veterans could submit (108 veterans completed and returned to MBVS).

On September 12, 2007 the Canadian Government announced that they would compensate Canadian personnel who were potentially exposed to the Agent Orange/Purple that was sprayed at CFB Gagetown

in 1966 and 1967 as part of a test. In their news conference the Canadian Government stated, "compensation is limited to those exposed to the deadly defoliant for three days in 1966 and four days in 1967...recipients must have been diagnosed with one of the 12 illnesses associated with Agent Orange."

Maine National Guard Training at Gagetown:

The first official use of CFB Gagetown as a training site for the Maine National Guard was in 1971. For those Guard personnel who believe they trained at CFB Gagetown in 1966 or 1967 can request their records from the Maine National Guard. Individuals who trained at CFB Gagetown do not have the same presumption of exposure given to Vietnam Veterans due to the limited use of Agent Orange at CFB Gagetown. Maine National Guard personnel will have to provide credible evidence they were in CFB Gagetown during the time in 1966 and/or 1967 and near the area where Agent Orange was sprayed in order to receive compensation from the US Department of Veterans Affairs (DVA). Under the Status of Forces Agreement, the United States is responsible for the health and welfare of all US military personnel and thus all claims for exposure to Agent Orange at CFB Gagetown will be handled by the USDAV.

In 2005-2007, an independent investigation of Gagetown herbicide application and effect takes place. Review of "Canadian Forces Base Gagetown Herbicide Spray Programs 1952–2004 Fact-Finder's Report (and related appendices) by Dr. Dennis Furlong. August 2007"

Purpose of the report (from ATSDR report): "In August 2005, the Canadian government commissioned a study to review the public health implications of the possible exposure of soldiers and non-military personnel to one or more herbicides—Agent Orange, Agent Purple, and Agent White—used or tested on the base from 1966 to 1967 and the possible exposure to any herbicide used or tested on the base from 1956 to 2004."

In 2012, Senator Collins requests that the Director of the Agency for Toxic Substances and Disease Registry (ATSDR).

Senator Collins asked ATSDR to assess whether the concentrations and quantity of 2,3,7,8-tetrachlorodibenzo -p- dioxin and other herbicides used at CFB Gagetown could lead to health problems among those who were exposed to it over time. Senator Collins also asked ATSDR to evaluate whether the concentrations of contaminants at CFB Gagetown could be considered a past public health hazard, according to Environmental Protection Agency (EPA) guidelines.

ATSDR Summary Conclusion 1:

The concentrations of contaminants at CFB Gagetown do not represent a public health hazard now or in the past to members of the U.S. military/National Guard who trained at this Canadian base or to recreational users who access the site now. This finding also applies to soldiers who trained during the three years following the herbicide testing period, 1966–1967. *Basis for Conclusion 1: Members of the U.S. military or the National Guard who trained at CFB Gagetown, in addition to non-military personnel who currently visit the base, may have been exposed to herbicides. The levels to which they may have been exposed, however, were below a level of concern for both cancer health effects and non-cancer health effects. There is little to no increased risk of adverse effects on blood-forming tissues, the liver,*

and the central nervous system, and the risk of skin disorders or developmental effects is not enough to represent a public health hazard.

Conclusion 2:

The methods used in the Canadian report, provided by CFHSG to evaluate the public health implications of past herbicide exposures, were consistent with ATSDR guidelines. *Basis for Conclusion 2: ATSDR conducted a detailed review of the Canadian report, focusing on the following sections: herbicide applications, field sampling techniques, quality assurance and quality control procedures, exposure pathways, the receptor population, comparison values, and cancer slope factors. The methods used in the report were all consistent with those typically used by ATSDR in the evaluation of the public health implications of human exposure.*

The Canadian Report Conclusion

The overall conclusion of the Canadian report states: Long-term or chronic risk estimates for military trainees who may have inadvertently trained in either the 1966 or 1967 spray areas more than a year following the spray applications were all less than levels that would be indicative of a concern ([hazard quotient²] $HQ < 1$); as a result, no dioxin related adverse health risks are predicted for military trainees potentially exposed in this manner (Furlong 2007). The cancer health risk estimations in the Canadian report found no excess lifetime risk estimate (it estimated less than one case in 100,000 people similarly exposed). ATSDR conducted a detailed review of the report, focusing on herbicide applications, field sampling techniques, quality assurance and quality control procedures, exposure pathways, receptor population, comparison values, and cancer slope factors. Procedures used in all these report sections were consistent with those typically used by ATSDR in evaluating the public health implications of human exposure. Observation: The report's conclusions are supported by the risk assessment methods used in the report. ATSDR finds no reason to reject the conclusions regarding the exposure scenarios considered. ATSDR assumes that members of the U.S. military who were at the base in 1966 and 1967 had exposure scenarios similar to those of the military trainees. Limitations of this ATSDR Assessment of the Canadian Report ATSDR does not have specific information regarding the deployment of U.S. military or National Guard members at CFB Gagetown. In evaluating the Canadian report, ATSDR made two assumptions: 2 The hazard quotient (HQ) is the ratio of the potential exposure to the substance and the level at which no adverse effects are expected. If the HQ is calculated to be equal to or less than 1, then no adverse health effects are expected as a result of exposure. If the HQ is greater than 1, then adverse health effects are possible. The HQ cannot be translated to a probability that adverse health effects will occur, and the HQ is unlikely to be proportional to risk. It is especially important to note that an HQ exceeding 1 does not necessarily mean that adverse effects will occur. 8 (1) That U.S. servicemen and women who deployed for training to CFB Gagetown experienced conditions similar to those encountered by members of the Canadian forces who trained at the base during the same time period. (2) The information obtained electronically (including the complete set of the reports) is of sufficient quality to be used to assess the potential risk of persons (Canadian or American) who were deployed to CFB Gagetown. ATSDR's conclusions are based upon an assumption that the exposure estimates developed in the Canadian report are reasonably accurate. As noted in the Canadian report, "The level of uncertainty resulting from ... activities, some of which occurred more than 50 years ago, coupled with the uncertainties inherent in standard forward looking risk assessment, is very large. As a result, the

expectations regarding the level of precision that this risk assessment exercise can produce should be limited" (Furlong 2007).

Recommendations for Commission to consider further examination:

The Canadian report and the ATSDR both obtained records of pesticide application; they reviewed and determined that "the concentrations of contaminants at CFB Gagetown do not represent a public health hazard now or in the past to members of the U.S. military/National Guard who trained at this Canadian base or to recreational users who access the site now". However, they may not have ruled out specific instances of US service members coming into contact with fresh applications of pesticide from 1952-2004. There is an established procedure for determining if a service member was exposed to harmful conditions that caused him/her a future disability. They must show that there was a hazard present where they were; that they were there; that they have a resulting disability; and that it's at least as likely as not that their exposure to the hazard caused their disability (nexus statement from Dr).

Possible steps:

1. Define the hazard (application schedule referenced in report); SME report on the ingredients that pose a potential hazard.
2. Training schedules placing units in areas that correspond with hazardous application or other exposure.
3. MBVS assists NG/veterans in filing claim and obtaining required documentation.