

BLUE WATER NAVY

Agent Orange was the most common herbicide used in Vietnam from 1962 to 1971. More than 2 million veterans served in Vietnam during the Vietnam War and are presumed to have been exposed to Agent Orange.

Historically, VA provided presumption for Agent Orange exposure for Blue Water Navy, Brown Water Navy and veterans with boots on the ground in Vietnam for the purposes of VA claims and benefits. Blue Water Navy Vietnam veterans were those who were veterans that were stationed in open water in the territorial waters offshore of Vietnam. Brown Water Navy veterans were those Vietnam veterans stationed in inland waterways of Vietnam, and veterans on the ground referred to troops who set foot in Vietnam.

The Department of Veterans Affairs (VA) was congressionally mandated by the Agent Orange Act of 1991 to contract with the National Academies of Science (NAS) to review existing peer-reviewed research on herbicides – to include their components – exposure and medical evidence on related health effects. That same law defined service in the Republic of Vietnam to any veteran who served on land and territorial waters in Vietnam to establish presumption for VA claims and benefits.

In 2002, VA Adjudication Manual M21-1, Part III, Chapter 4 changed the defined term “service in Vietnam.” The VA ruling stated, “A veteran must have actually served on land within the Republic of Vietnam (RVN) to qualify for the presumption of exposure to herbicides, under 38 Code of Federal Regulations (C.F.R.) 3.3.07(a)(6). The fact that a veteran has been awarded the Vietnam Service Medal does not prove that he or she was ‘in-country.’ Service members who were stationed on ships off-shore, or who flew missions over Vietnam, but never set foot in-country, were sometimes previously awarded the Vietnam Service Medal.”

Based on this provision, VA Regional Offices (ROs) were directed to deny claims of Vietnam veterans whose service was in the waters off-shore (Blue Water Navy veterans) and who had been awarded the Vietnam Service Medal. In certain instances, where service connection had previously been awarded for an Agent Orange-related disease, service connection has been severed. After the ruling, veterans are presumed by VA as exposed to Agent Orange only if they went ashore when a ship docked to the shore of Vietnam or served aboard ships that operated on the inland waterways of Vietnam anytime between January 9, 1962 and May 7, 1975.

VA’s ruling for Blue Water veterans was upheld by the Supreme Court in the Jonathan Haas vs. Secretary James Peake case in 2008. In 2009, VA requested IOM conduct a study to determine if Blue Water Navy Vietnam veterans experienced a comparable range of exposures to herbicides and their contaminants (including Agent Orange and dioxin) as their Brown Water Navy Vietnam Veterans and those service members on the ground in Vietnam.

On Friday, May 20, 2011, the IOM released its prepublication version and results of the Blue Water Navy Vietnam Veterans and Agent Orange Exposure Report.

The IOM, when asked by VA to examine and clarify a study conducted in Australia which had suggested naval personnel, through desalination procedures and other factors, were potentially exposed to concentrations of Agent Orange four times greater than those on land the IOM reexamined this study. The IOM found an intriguing error in the calculations. Sailors had not been exposed to concentrations four times higher as the Australian study believed. They were exposed to concentrations ten times higher than their counterparts on land. The science supports what veterans have always known, our naval forces off the coast of Vietnam have had to cope with the same after-effects as their compatriots on land.

The American Legion adamantly opposes VA’s ruling to deny Blue Water Navy veterans claims and benefits. By resolution, we strongly believe, “Congress in its plain language included a definition of ‘Service in Republic of Vietnam’ in the most general of terms; ‘performed active military, naval or air service in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975’ so as to plainly be deemed an intent of inclusion, rather than exclusion.” The American Legion further supports legislation to “plainly identify and further clarify service in the Republic of Vietnam beginning January 9, 1962 and ending on May 7, 1975” to include those who served in the territorial waters offshore, as this was clearly the original intent of the statute.

The American Legion calls for Congress to clarify the original intent of “Service in the Republic of Vietnam.” Furthermore, the Legion urges VA to conduct a first-of-its kind on epidemiological study of long-term health outcomes of veterans who were Blue Water Navy, compared to their Brown Water and ground troop counterparts to evaluate Blue Water Navy veterans’ current injuries and illnesses which may be related to Agent Orange and TCDD exposures.