



Department of
Veterans Affairs

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Fact Sheet

Agent Orange and Presumptions of Service Connection: Inland Waterways and “Blue Water” Navy Veterans

The Department of Veterans Affairs (VA) remains committed to ensuring that Vietnam-era Veterans receive benefits they have earned through their service. This commitment includes determining presumptive service connection related to Agent Orange and other herbicide exposure.

- Congress has provided that a Veteran who “served in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975,” will be presumed to have been exposed to an herbicide agent during such service. This presumption of exposure may be used to service connect an herbicide-related disease and establish entitlement to VA disability compensation.
- VA interprets the phrase “served in the Republic of Vietnam” to refer to duty or visitation on land (ground troops) or on the inland waterways of Vietnam (“Brown Water” Navy), but not to include service in the waters offshore (“Blue Water” Navy) or in the airspace above Vietnam.
- In 2008, the U.S. Court of Appeals for the Federal Circuit (*Haas v. Peake*) upheld VA’s policy as a reasonable interpretation of the governing statute.

At the request of VA, the Institute of Medicine (IOM) conducted a review of numerous medical studies related to whether Blue Water Navy Veterans were exposed to herbicides during Vietnam service.

- The IOM determined in its report, *Blue Water Navy Vietnam Veterans and Agent Orange Exposure* (2011), that there was insufficient evidence to conclude that Blue Water Navy Veterans were exposed to herbicides.
- The medical and scientific evidence available at this time does not support extension of the presumption of exposure to herbicides to Blue Water Navy Vietnam Veterans.

A recent Veterans Court decision, *Gray v. McDonald*, required that VA re-evaluate and clarify its definition of “inland waterways.” Consistent with the decision in *Gray*, the Department has

clarified that it defines inland waterways, which are part of the Republic of Vietnam for purposes of acknowledging Agent Orange exposure, as fresh water rivers, streams, canals, and similar waterways. Because these waterways are distinct from ocean waters and related coastal features, service on these waterways is service in the Republic of Vietnam. VA considers inland waterways to end at their mouth or junction to other offshore water features, as described below. For rivers and other waterways ending on the coastline, the end of the inland waterway will be determined by drawing straight lines across the opening in the landmass leading to the open ocean or other offshore water feature, such as a bay or inlet. For the Mekong and other rivers with prominent deltas, the end of the inland waterway is determined by drawing a straight line across each opening in the landmass leading to the open ocean.

In contrast, offshore waters, where exposure to Agent Orange will not be presumed, are the high seas and any coastal or other water feature, such as a bay, inlet, or harbor, containing salty or brackish water and subject to regular tidal influence. This includes salty and brackish waters situated between rivers and the open ocean. Examples of offshore bays or harbors in Vietnam include, but are not limited to DaNang Harbor, Nha Trang Harbor, Cam Ranh Bay, Qui Nhon Bay, and Ganh Rai Bay.

Veterans who meet certain service qualifications and have any of the medical conditions determined by VA to be related to exposure to Agent Orange are encouraged to apply for benefits. Claimants may apply online through the eBenefits portal or by filling out VA Form 21-526, Veterans Application for Compensation and/or Pension, or VA Form 21-526EZ, Fully Developed Claim (Compensation). Additional information regarding exposure to herbicides during Vietnam service is available on VA's Public Health site at <http://www.publichealth.va.gov/exposures/agentorange/>.

FAQs

Who are Blue Water Navy Veterans?

Blue Water Navy Veterans are those sailors and other Veterans who served aboard ships that did not enter Vietnam's inland waterways.

Were Blue Water Navy Veterans exposed to Agent Orange?

The U.S. military sprayed Agent Orange over the Vietnam land mass. However, Blue Water Navy Veterans may be entitled to the presumption of Agent Orange exposure if they were on a ship when it entered Vietnam's inland waterways or went ashore.

Why doesn't VA recognize Blue Water Navy Agent Orange exposure?

The presumption of exposure to Agent Orange during Vietnam service is based upon service in Vietnam where Agent Orange spraying occurred, which includes the country's inland waterways. VA asked the Institute of Medicine (IOM) to determine whether there was any scientific basis for concluding that Blue Water Navy Veterans, who had only shipboard service off the coast of Vietnam, were also exposed to Agent Orange. IOM was unable to determine whether or not Blue Water Navy Veterans were exposed to herbicides sprayed in Vietnam.

Were any Navy Veterans exposed to Agent Orange?

Yes. VA recognizes that many Navy Veterans served in Vietnam, and those Veterans are afforded the presumption of exposure to Agent Orange and service connection for diseases associated with Agent Orange exposure.

Doesn't an Australian study conclude that Blue Water Navy Veterans were exposed to Agent Orange?

No. IOM validated the Australian study's laboratory methodology and confirmed that the intake of Agent Orange-contaminated seawater on Navy ships could result in exposures through the Navy's potable water desalinization process. However, the IOM concluded that the lack of evidence regarding the extent of any herbicides in the seawater made it impossible to determine whether Blue Water Navy personnel were exposed to herbicides through such processes.

Isn't there new science proving Blue Water Veterans were exposed to Agent Orange?

No, environmental health experts in VA's Veterans Health Administration have reviewed the available scientific information and concluded that it is not sufficient to support a presumption that Blue Water Navy Veterans were exposed to Agent Orange. This review includes the 2011 Institute of Medicine report specifically addressing the plausibility of offshore exposure, as well as subsequent research published in reputable scientific journals. VA, however, remains concerned with the health and well-being of all Veterans, including those who served off Vietnam's coast. As a result, we have partnered with the Veterans of Foreign Wars, the Vietnam Veterans of America and the Blue Water Navy Vietnam Veterans to initiate a groundbreaking study of Blue Water Navy Veterans health outcomes. We hope to have data gathered and analyses published in 2017.

What's next for Blue Water Veterans?

VA will continue to resolve their claims for Agent Orange-related disability benefits on a case-by-case basis.

Where can Navy Veterans find more information?

On the web at

<http://www.publichealth.va.gov/PUBLICHEALTH/exposures/agentorange/index.asp>. We also maintain a public database of ships known to have operated on the inland waterways for some period of time at <http://www.publichealth.va.gov/exposures/agentorange/shiplist/list.asp>.

Ships List FAQs

I served on a PCF "Swift Boat" in and around the Rung Sat Special Zone in 1968. Am I entitled to a presumption of exposure to Agent Orange?

Yes, VA has determined that Veterans who had Vietnam service aboard certain classes of boats and ships that operated primarily on Vietnam's inland waterways are entitled to the presumption. PCF is one of those classes. Additionally, service in the Rung Sat Special Zone is service in Vietnam, not offshore, under VA's policy.

I served from 1965 to 1967 aboard the USS Guadalupe (AO-32), an oiler that operated in Ganh Rai Bay during April 1966, but I have never filed a claim for disability benefits. My

doctor just diagnosed type II diabetes. Am I still entitled to the presumption of Agent Orange exposure?

As a result of the remand by the Court of Appeals for Veterans Claims in *Gray v. McDonald*, VA reviewed and clarified its policy concerning inland waterways where exposure to herbicides will be presumed. Although VA had previously considered Qui Nhon Bay and Ganh Rai Bay to be inland waterways, these two offshore bays are no longer considered inland waterways under VA's policy clarification.

Although VA will no longer add new ships or new dates of service to the ships list based on their presence in Qui Nhon Bay or Ganh Rai Bay, VA has already established a presumption of Agent Orange exposure for a number of ships entering those bays, including the *Guadalupe*'s April 1966 service. VA will therefore continue to extend that presumption to crewmembers who were aboard the *Guadalupe* at that time. If you were actually aboard the *Guadalupe* when it operated in Ganh Rai Bay in April 1966, you will be entitled to the presumption of Agent Orange exposure.

I served aboard a ship that operated on Ganh Rai Bay during April 1968, but I have never filed a claim for disability benefits. My doctor just diagnosed type II diabetes. VA has already recognized my ship's service on Ganh Rai in 1966, but not 1968. Am I still entitled to the presumption of Agent Orange exposure?

If you went ashore in Vietnam at any point while performing active service, you are entitled to the presumption of exposure to Agent Orange. Although your ship is already on the list because it operated in Ganh Rai Bay in 1966, we are not adding the April 1968 period to the list because it was not service on Vietnam's inland waterways. Because we're not adding the April 1968 period to VA's ships list, that offshore service cannot be used to establish a presumption of exposure to Agent Orange.