

NAVY'S VIETNAM VETS SEEK EQUAL BENEFITS

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A bill in Congress provides a seemingly straightforward answer to a question that has vexed tens of thousands of Americans who served in the U.S. military.

Who is a Vietnam veteran?

The answer is vitally important to Navy personnel who served in Vietnam's territorial waters. For now, the Department of Veterans Affairs' definition of a Vietnam veteran does not include these men and women.

Legislation introduced in the House would change that, clearing the way for Navy veterans to get disability payments and free health care for ailments linked to the herbicide Agent Orange, from type II diabetes to a variety of cancers.

At stake: **\$3 billion in benefits.**

The VA says **the pool of veterans who would become eligible for benefits under the bill is 800,000**, a number critics accuse the VA of exaggerating to inflate costs that may scare Congress.

"They have no respect for Navy veterans," said Virgil Anderson, 63, a Navy veteran with diabetes who has a June 15 VA hearing in St. Petersburg to appeal a denial of benefits.

Before 2002, sailors with the Vietnam Service Medal — given to those who served in the theater of war on land or sea — automatically got benefits, whether they were ground troops or in the Navy.

But the VA, which did not return repeated calls for comment, changed its policy in 2002, saying common sense dictated that Agent Orange was used on land alone and therefore couldn't harm Navy personnel.

The VA has argued it was not the intent of Congress to include the Navy when it adopted a law in 1991 providing compensation for Agent Orange.

Rep. Bob Filner, D-Calif., chairman of the House Committee on Veterans Affairs, has introduced legislation to include Navy veterans. He has more than 40 co-sponsors.

"These guys have suffered long enough," Filner said. "It's going to cost money. But that's the cost of going to war. We're spending trillions bailing out everybody else. Let's bail out Vietnam veterans."

The chances for passage are uncertain. Filner said lawmakers may be reluctant to add costs to the federal budget in an economic crisis. A similar bill introduced last year failed.

The U.S. military sprayed 20 million gallons of the herbicide Agent Orange in Vietnam to remove foliage that provided cover to enemy fighters.

It might seem counterintuitive that veterans who served on ships would claim exposure to an herbicide used only on land. But reality, Navy veterans say, is far more complicated.

Many Navy veterans say they often went ashore or their ships transported barrels of Agent Orange.

Also, ships secured drinking water by distilling saltwater, and a study by Australian scientists said the dioxin in Agent Orange could not be eliminated by ship filtration systems and provided a likely source of contamination to sailors.

Australia provides Agent Orange benefits to its Navy veterans of Vietnam.

Bart Stichman, co-director of the National Veterans Legal Services Program, said testimony by many Navy veterans also indicates that ships close to shore or in Vietnam harbors were sometimes inadvertently sprayed by drifting winds that carried Agent Orange.

A 1990 study by the Centers for Disease Control showed Vietnam veterans had a rate of non-Hodgkin's lymphoma 50 percent higher than the general population. The disease is linked to Agent Orange.

More surprising was the finding that among all Vietnam veterans, those in the Navy had the highest rate of non-Hodgkin's.

The VA still pays benefits to Navy veterans who have non-Hodgkin's, though the agency does not link the illness to Agent Orange exposure.

VA critics question how the agency can grant Navy veterans non-Hodgkin's benefits while rejecting their claims for a slew of other Agent Orange illnesses.

The VA decided by 2002 that the intent of Congress was that only veterans with "boots on the ground" should be eligible for benefits.

So the VA simply changed its definition of who was eligible. The VA is required to advertise any rule change impacting benefits in the Federal Register, allowing a period of public comment before making a change.

The VA, Stichman said, violated federal law by ignoring that requirement.

In a 2005 article in the *Journal of Law and Policy*, Dr. Mark Brown, director of Environmental Agents Service at the VA, made a surprising admission: Science did not back up the VA's policy on the Navy.

Calling Navy veterans "non-Vietnam veterans," reflecting the VA's policy that sailors don't qualify, he wrote, "There is no obvious scientific or public health basis for excluding these non-Vietnam War veterans" from the presumption that their illnesses are caused by Agent Orange.

To address that "apparent inequity," Brown wrote, the VA paid benefits to those Navy veterans who could prove they were exposed to Agent Orange, which ground troops need not do.

But proving exposure 40 years after the fact is often an impossible hurdle, Navy veterans say.

In 2004, a Navy veteran appealed the VA's denial of his Agent Orange claim in a veterans court set up to handle appeals of VA cases. The case became a precedent-setter.

In 2006, that court ruled in favor of the veteran, saying the VA's exclusion of Navy veterans was too restrictive. But last year, the VA won the case on appeal to a higher court, which decided its rules on Agent Orange were reasonable.

The VA then changed its rules one more time, closing another avenue for Navy veterans seeking benefits.

After long holding that Navy veterans who served on inland waterways, like harbors and rivers, could get benefits, the VA decided a harbor did not qualify.

"The VA will always find something else and interpret the law however they see fit," said Lloyd Granaas, 67, a Navy veteran living near Ocala whose Agent Orange claim has been denied.

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