

## ISSUE BRIEF: BLUE WATER NAVY VIETNAM VETERANS

### The Situation

- In 1990, the Center for Disease Control, concluded the Selected Cancer Study showed that Vietnam veterans are at a 50 percent increased risk for non-Hodgkin's lymphoma. The risk was even higher with those who served in the U.S. Navy offshore. Subsequently, VA published 38 C.F.R. § 3.313 that recognizes non-Hodgkin's lymphoma as a presumptive disease for those who served in the waters offshore of Vietnam.
- Congress passed the Agent Orange Act of 1991 to provide benefits and presumptive diseases to veterans exposed to Agent Orange. When VA implemented the Agent Orange Act, they determined that veterans who received the Vietnam Service Medal, to include those who served in the waters offshore, were exposed to Agent Orange. In 1993, a VA General Counsel Opinion held that veterans with service in the waters offshore were exposed to Agent Orange.
- The Veterans Benefits Improvements Act of 1996 extended the wartime period for service in Vietnam. Subsequently, a VA General Counsel Opinion in 1997 erroneously determined that this implied that only veterans who physically served in Vietnam were exposed to Agent Orange. In 2002, the VA updated its manual reiterating the mistaken concept that exposure to Agent Orange was conceded only to those physically in Vietnam. The decision to exclude Blue Water Navy veterans from exposure to Agent Orange was not based on science.

### The Challenge

- The National Academy of Medicine (NAM) 2008 update to its study, "Veterans and Agent Orange," noted, "[g]iven the available evidence, the committee recommends that members of the Blue Water Navy should not be excluded from the set of Vietnam-era veterans with presumed herbicide exposure."
- In 2011, the NAM convened the Blue Water Navy Vietnam Veterans and Agent Orange Exposure Committee to address Agent Orange exposure for Blue Water Navy veterans; its report found that, "information to determine the extent of exposure experienced by Blue Water Navy personnel was inadequate, but that there were possible routes of exposure."
- In 2016, the NAM stated, "the observed distributions of these most reliable measures of exposure [to TCCD] make it clear that they cannot be used as a standard for partitioning veterans into discrete exposure groups, such as service on Vietnamese soil, service in the Blue Water Navy, and service elsewhere in Southeast Asia."

## **The Solution**

- Based on the existing evidence and law, Congress must enact legislation to concede Agent Orange exposure to Vietnam veterans who served aboard U.S. vessels in the waters offshore of Vietnam.
- For a decade, Blue Water Navy veterans were eligible for and received presumptive service connection based on this exposure. The erroneous VA administrative decision in 2002, not based on science or law, eliminated concession of exposure to Agent Orange to the waters offshore of Vietnam. The time to correct this injustice is now.
- Congress should pass H.R. 203 and H.R. 299, the Blue Water Navy Vietnam Veterans Act of 2019.