

Veteran Service Organizations Urge Senate to Pass Blue Water Navy Legislation Now

The bill passed the House earlier this year by a 382-0 vote

Sep 19, 2018

WASHINGTON – The Veterans of Foreign Wars of the United States, Disabled American Veterans, The American Legion and Paralyzed Veterans of America today released the following letter to the Senate Committee on Veterans' Affairs urging the Senate to pass H.R. 299, the Blue Water Navy Vietnam Veterans Act of 2018, before the 115th Congress convenes:

September 19, 2018

The Honorable Johnny Isakson, Chairman
Senate Committee on Veterans' Affairs
United States Senate
412 Russell Senate Office Building
Washington, DC 20510

The Honorable Jon Tester, Ranking Member
Senate Committee on Veterans' Affairs
United States Senate
825A Hart Senate Office Building
Washington, DC 20510

Dear Chairman Isakson and Ranking Member Tester:

On behalf of the millions of veterans we represent, we urge you to take every action

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necessary to ensure that a vote is held by the Committee on Veterans' Affairs, and then the full Senate, on H.R. 299, the *Blue Water Navy Vietnam Veterans Act of 2018*, as soon as possible before the 115th Congress concludes. This bipartisan legislation was passed by the House earlier this year by a 382 to 0 vote. It is now time for the Senate to follow suit by swiftly passing H.R. 299.

This legislation would reverse an erroneous decision by the Department of Veterans Affairs (VA) in 2002 that made thousands of Vietnam veterans – commonly called “Blue Water Navy veterans” – ineligible for health care and benefits connected to illnesses caused by exposure to Agent Orange. VA’s decision to issue new administrative rules requiring that a veteran, “...*must have actually served on land within the Republic of Vietnam (RVN) to qualify for the presumption of exposure to herbicides*” (M21-1, Adjudication Procedures Manual, Part III, Paragraph 4.24(e)(1)) was not based on any new scientific evidence or changes in law, and should therefore be reversed.

Despite statements and inferences made in a recent VA letter to the Committee, the National Academy of Medicine -- formerly called the Institute of Medicine (IOM) -- has not concluded that there is any scientific basis to treat Blue Water Navy veterans differently in regards to Agent Orange exposure compared to their peers who served on the land or inland waters in Vietnam. In fact, the most recent IOM report on Agent Orange published in 2016 found that, “...*it is generally acknowledged that estuarine waters became contaminated with Herbicides and dioxin as a result of shoreline spraying and runoff from spraying on land, particularly in heavily sprayed areas that experienced frequent flooding.*” Further, the 2016 IOM report found that, “...*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.*” In other words, looking at the most current observations and findings of exposure to Agent Orange in Vietnam veterans, the IOM found that there is **not** a scientific basis to exclude Blue Water Navy veterans based solely on the fact that their service was in the offshore waters.

In addition, a review of the legal history of the definition of “service in Vietnam” supports restoration of eligibility for Blue Water Navy veterans. In 1990, prior to enactment of the “*Agent Orange Act of 1991*,” a Centers for Disease Control (CDC) study found that Vietnam veterans who served in the waters offshore were 50 percent more likely to develop Non-Hodgkin’s lymphoma than other veterans. Subsequently, VA promulgated 38 CFR 3.313, which specifically defined “service in Vietnam” to include, “*service in the waters offshore*”; which remained in effect following enactment of the *Agent Orange Act of 1991*. Later that year, in November 1991, VA issued M21-1, part III, paragraph 4.08(k)(1)-(2). which noted, “*In the absence of contradictory evidence, ‘service in Vietnam’ will be conceded if the records shows [sic] that the veteran received the Vietnam Service Medal,*” which was

awarded to veterans who served in Vietnam, including those on ships in the waters offshore.

Finally, the undersigned veterans organizations do not support imposing fees on service connected disabled veterans to receive VA home loan guaranties for new jumbo loans authorized by the legislation. VA's existing home loan guaranty program currently exempts all disabled veterans from paying fees in deference to the price they have already paid with their service, and we therefore urge the Committee to strike this provision from H.R. 299 before passing the legislation.

The brave men and women who proudly wear our nation's uniform are often asked to serve in the roughest and most dangerous environments on Earth. When they are injured or made ill as a result of their service, a grateful nation must provide them with all of the care and benefits they need and deserve. With our aging Blue Water Navy veterans continuing to suffer and die from illnesses that have already been legally and scientifically linked to Agent Orange exposure, Congress must finally provide them long-delayed justice by voting to pass H.R. 299 this year.

Sincerely,



Garry J. Augustine
Washington Executive Director
DAV (Disabled American Veterans)



Robert E. Wallace
Executive Director
Veterans of Foreign Wars of
the United States



Louis Celli, Jr.
Executive Director
Government & Veterans Affairs
The American Legion



Carl Blake
Executive Director
Paralyzed Veterans of America

cc: Members of the United States Senate

