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Presumption of Exposure to Herbicides for Blue Water Navy Vietnam Veterans Not Supported

A Notice by the Veterans Affairs Department on 12/26/2012

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Agency: Department of Veterans Affairs

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Action: Notice.

Summary: On May 20, 2011, at the request of the Department of Veterans Affairs (VA), the Institute of Medicine (IOM) of the National Academy of Sciences issued a report titled, "Blue Water Navy Vietnam Veterans and Agent Orange Exposure." The IOM reviewed a wide range of data sources including peer-reviewed literature, exposure and transport modeling, interviews with veterans, ship deck logs, and other government documents, and concluded that there is insufficient evidence to determine whether Blue Water Navy Veterans were exposed to Agent Orange-associated herbicides during the Vietnam War. After careful review of the IOM report, the Secretary determines that the evidence available at this time does not support establishing a presumption of exposure to herbicides for Blue Water Navy Vietnam Veterans. VA will continue to accept and review all Blue Water Navy Vietnam Veteran claims based on herbicide exposure on a case-by-case basis.

FOR FURTHER INFORMATION CONTACT: Dr. Terry Walters, Department of Veterans Affairs, 810 Vermont Ave. NW., Washington, DC 20420, telephone (202) 461-1020. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: During the Vietnam War, the U.S. military used various tactical herbicides as defoliants to help military personnel identify enemy transportation and communication routes and camps, reduce cover for enemy forces, and kill crops that might be used by the enemy. The best known and most widely used herbicide was Agent Orange. Agent Orange was contaminated with the highly toxic chemical 2, 3, 7, 8-Tetrachlorodibenzo-p-Dioxin (TCDD). Numerous adverse health effects in veterans who served in Vietnam have been attributed to exposure to Agent Orange. The Agent Orange Act of 1991, 102, 105 Stat. 11, established a presumption of herbicide exposure for veterans who had served in Vietnam and who developed a disease associated with Agent Orange exposure. The presumption applies to those who served in the Republic of Vietnam on the ground (ground troops) or on its inland waterways (Brown Water Navy Veterans). Veterans who served in deep-water naval vessels off the coast of Vietnam during the Vietnam War are referred to as Blue Water Navy Veterans. Claims filed by veterans who served on only Blue Water Navy vessels based on herbicide exposure are accepted and reviewed on a case-by-case basis.

On May 20, 2011, the Institute of Medicine (IOM) of the National Academy of Sciences issued a report titled, "Blue Water Navy Vietnam Veterans and Agent Orange Exposure." The report was issued and the underlying study was conducted at the request of the Department of Veterans Affairs (VA) and neither was required by law. VA requested the study in response to veteran concerns and the recommendations in the IOM report "Veterans and Agent Orange: Update 2008." VA tasked the IOM with establishing a committee to determine whether Blue Water Navy Vietnam Veterans experienced exposures to herbicides and their contaminants (focusing on dioxin) comparable to those of ground troops and Brown Water Navy Vietnam Veterans.

For the study, the IOM reviewed a wide range of data sources including peer-reviewed literature, exposure and transport modeling, interviews with veterans, ship deck logs, and other government documents. After reviewing and analyzing available data, the IOM concluded that ground troops and Brown Water Navy Veterans had qualitatively more pathways of exposure to Agent Orange-associated TCDD than did Blue Water Navy Veterans. The IOM found that a paucity of scientific data concerning potential exposures for Blue Water Navy Veterans made it impossible to determine whether these veterans were exposed to Agent Orange-associated TCDD and, therefore, that exposure of Blue Water Navy Vietnam Veterans to Agent Orange-associated TCDD cannot be reasonably determined.

After careful review of the IOM report, "Blue Water Navy Vietnam Veterans and Agent Orange Exposure," the Secretary has determined that the evidence available at this time does not support establishing a presumption of exposure to herbicides for Blue Water Navy Vietnam Veterans. VA will continue to accept and review all Blue Water Navy Vietnam Veteran claims based on herbicide exposure on a case-by-case basis. The Secretary's determination not to establish a presumption of exposure does not in any way preclude VA from granting service connection on a case-by-case basis for diseases and conditions associated with Agent Orange exposure, nor does it change any existing rights or procedures.

Signing Authority: The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on December 19, 2012, for publication.

Dated: December 19, 2012.

Robert C. McFetridge,
Director, Office of Regulation Policy and Management, Office of the General Counsel,
Department of Veterans Affairs.

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