

Warren County Veterans Service Officer's Report for March 2019

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Did you hear the good news????: The United States Court of Appeals for the Federal Circuit has issued a resounding decision in favor of "Blue Water" Navy Veterans.

Since 1997 the VA has stated that "Blue Water" Veterans -- those Veterans who served aboard ships off the coast of Vietnam -- were **NOT** eligible for the Agent Orange presumptive disabling conditions applied to all Veterans who served "boots on the ground" in Vietnam and to all "Brown Water Navy" Veterans who served on the inland waterways of Vietnam.

Now, in *Procopio v. Wilkie*, the Federal Circuit has ruled by a 9-2 margin that the **VA's interpretation of the law was indefensible**, and that **Blue Water Navy Veterans ARE entitled to the same legal presumptions** concerning Agent Orange exposure that all other Veterans who served in Vietnam during the Vietnam War receive.

The decision orders the VA to stop interpreting the Agent Orange presumptive conditions law in a manner that both the text of the law and the Congressional intent behind the law does not support.

From Judge Kimberly Moore, writing for the Federal Circuit's majority: "The government's foot-on-land requirement, first articulated in 1997, does not provide a basis to find ambiguity in the language Congress chose."

What does all of this mean?

It means that an entire class of Veterans who were denied disability compensation benefits for decades is now suddenly eligible to receive disability compensation for current disabling conditions presumptively linked to Agent Orange.

You may have filed for conditions such as: Type II diabetes, peripheral neuropathy, ischemic heart disease, and other Agent Orange presumptive conditions.

Now is the time to pursue these cases again & immediately on the basis that the Federal Circuit's decision in *Procopio* requires the VA to extend the Agent Orange exposure presumptions to ALL Blue Water Veterans.

Time is of the essence in pursuing these cases. Why?

Because we do not yet know how the VA is going to respond to this decision. It is likely that they will appeal this decision to the United States Supreme Court. The Supreme Court could then choose to hear their case and, in a worst case scenario, overrule the Federal Circuit, returning things back to the way they were.

But for now the case law is firmly in the **Blue Water Navy Veterans'** favor. It is important to pursue these cases as early as you can.

***See attached list of diseases presumptive to Agent Orange exposure**

Diseases Related to Agent Orange Exposure

Exposure to Agent Orange, a toxic chemical used to clear trees and plants during the Vietnam War, likely causes several illnesses. Below list the presumptive illnesses associated with exposure to Agent Orange.

Cancers believed to be caused by exposure to Agent Orange

- **[Chronic B-cell Leukemia](#)**: A type of cancer that affects your white blood cells (cells in your body's immune system that help to fight off illnesses and infections).
- **[Hodgkin's Disease](#)**: A type of cancer that causes your lymph nodes, liver, and spleen to get bigger and your red blood cells to decrease (called anemia).
- **[Multiple Myeloma](#)**: A type of cancer that affects your plasma cells (white blood cells made in your bone marrow that help to fight infection).
- **[Non-Hodgkin's Lymphoma](#)**: A group of cancers that affect the lymph glands and other lymphatic tissue (a part of your immune system that helps to fight infection and illness).
- **[Prostate Cancer](#)**: Cancer of the prostate (the gland in men that helps to make semen)
- **[Respiratory Cancers: \(including lung cancer\)](#)**: Cancers of the organs involved in breathing (including the lungs, larynx, trachea, and bronchus).
- **[Soft Tissue Sarcomas: \(other than osteosarcoma, chondrosarcoma, Kaposi's sarcoma, or mesothelioma\)](#)**: Different types of cancers in body tissues such as muscle, fat, blood and lymph vessels, and connective tissues.

Other illnesses believed to be caused by exposure to Agent Orange

- **[AL Amyloidosis](#)**: A rare illness that happens when an abnormal protein (called amyloid) builds up in your body's tissues, nerves, or organs (like your heart, kidneys, or liver) and causes damage over time.
- **[Chloracne: \(or other types of acneform disease like it\)](#)**: A skin condition that happens soon after contact with chemicals and looks like acne often seen in teenagers. Under VA rating regulations, it must be at least 10% disabling within 1 year of contact with herbicides.
- **[Diabetes Mellitus Type 2](#)**: An illness that happens when your body is unable to properly use insulin (a hormone that turns blood glucose, or sugar, into energy), leading to high blood sugar levels.
- **[Ischemic Heart Disease](#)**: A type of heart disease that happens when your heart doesn't get enough blood (and the oxygen the blood carries). It often causes chest pain or discomfort.
- **[Parkinson's Disease](#)**: An illness of the nervous system (the network of nerves and fibers that send messages between your brain and spinal cord and other areas of your body) that affects your muscles and movement—and gets worse over time.
- **[Peripheral Neuropathy, Early Onset](#)**: An illness of the nervous system that causes numbness, tingling, and weakness. Under VA rating regulations, it must be at least 10% disabling within 1 year of contact with herbicides.
- **[Porphyria Cutanea Tarda](#)**: A rare illness that can make your liver stop working the way it should and can cause your skin to thin and blister when you're out in the sun. Under VA's rating regulations, it must be at least 10% disabling within 1 year of contact with herbicides.

If you have an illness you think is caused by exposure to Agent Orange—and you don't see it listed here—you can still file a claim for disability compensation. You'll need to show that you have a disability and include a doctor's statement or a hospital statement noting that your illness is believed to be caused by exposure to Agent Orange.

Warren County Veterans' Services at 518/761-6342 - review of your benefits and/or file a VA claim.