

## **BLUE WATER NAVY CLAIM GUIDE**

### **Perfecting a Blue Water “Boots-On-The-Ground” Claim**

August 11, 2016 Update

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#### **IMPORTANT WARNING**

*The following information does NOT provide all the information required to file an initial Claim for compensation with the Department of Veterans Affairs.*

This was written with those in mind who have already submitted the detailed information for an initial claim that includes medical evidence, proof of service and the like, and whose only focus is on proving boots-on-ground. In most cases, they will be veterans who have already had a claim denied based on “no proof of having served in Vietnam”. All others, including those who are filing a Claim for the first time, need to procure that preliminary information, find the proper forms to use, and find various types of supporting documentation. Those individuals should seek the assistance of a Veteran Service Officer, or spend the time learning the required information for submitting an initial Claim.

The focus of this article is proving boots-on-ground (which, depending on your circumstances, might require getting ships entered onto the Inland Waters Ship List).

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#### **WERE YOU ON THE INLAND WATERS OF VIETNAM?**

If you were on a ship that entered the Inland Waters of Vietnam, you are in the same category for presumptive exposure to herbicide as those who had boots-on-ground. All Inland Water sailors are presumed to have been exposed to Agent Orange. This makes you eligible for service connection for any or all of the diseases that VA lists as a result of exposure to herbicide in Vietnam.

#### **WHAT IS CONSIDERED INLAND WATER?**

The current definition [Note the date at top] of Inland Water that is used by the VA includes only those waterways that lie within the geographic boundaries of South Vietnam. If you draw a line down the coastline of South Vietnam (the Republic of Vietnam), closing the mouths of all rivers and most Mekong Delta canals, not including bays, ports and harbors, and you were on the inside (landward side) of that line, you are considered to have been on an Inland Waterway and are therefore given resumption of exposure. If you were in a bay, port or harbor, or were otherwise on the outside (seaward side) of that line, you are not given the presumption of exposure and must submit your claim as direct exposure. Once a ship appears on the Inland Waters Ship List, crew members only need to prove they were on that ship at the time it is deemed to have been on Inland Waters.

#### **HOW CAN A SHIP QUALIFY FOR THE INLAND WATER SHIPS LIST?**

The only way to definitely “prove” that a ship was on an Inland Waterway in Vietnam is by finding that information in the ship’s Deck Logs. There will be a notation within the Deck Logs that will indicate the exact location of a Blue Water ship if it entered the Inland Water system of Vietnam. (There are very few exceptions to this). This location might be found in one of the three entries giving latitude and

longitude of a ship at 0800, 1600 and 2000 hours every day. These entries are found on the top of the first page for each day's entries in the Deck Log. These position entries are about 95% accurate and can often be cross referenced with narrative entries to validate them. If a ship was not stationary or was not operating on Inland Waters at those precise times, then the Deck Log narrative entered during each watch period should have a notation that the ship entered a river or canal leading to the geographic interior of Vietnam. A copy of the page from the Deck Log must be submitted as proof that the ship was on Inland Waters. In the event that the Deck Logs are absolutely not available in any of the potential repositories (a possible but rare occurrence), a statement in the Command History is potentially the only alternative document that may be substituted for the ship's Deck Logs to prove a ship was within the geographical boundaries of Vietnam and that determination of when this substitution is accepted is made on a case-by-case basis. The veteran should do the gathering of this evidence themselves to expedite this process of the claim.

### **WHERE ARE THE DECK LOGS?**

Navy Deck Logs are housed at the National Archives in College Park, Maryland. Copies can be obtained by visiting the Archives in person, by hiring a researcher to obtain copies, or by requesting the National Archives to provide copies by mail. There are fees attached for postage, copies and any billable time involved in researching and collecting the Deck Logs before copying. Emailing the National Archives is the easiest way to get this process started.

The National Archives has begun a program for the Blue Water Navy Association of digitizing (scanning) Ship Deck Logs from the Vietnam Era and making them available at no cost via a public Internet portal. The best place for viewing scanned Deck Logs is by visiting this link from the Blue Water Navy Ship Locator Web Page: [MANY SHIPS TYPES of the Vietnam War Era showing Deck Logs](#)

There were nearly 750 ships that served in Vietnam between January, 1961 and May, 1975, with many of them serving for several months per year, so the project of providing every Deck Log for every ship will take several more years to complete.

### **WHAT IS A COMMAND HISTORY?**

The ship's Command History is a narrative report summarizing the ships' key activities for a calendar year or some alternative period of time. This report is submitted under Naval Operations guidelines as a chronological record of a ship's deployment. Many Command Histories are archived at the Naval History and Heritage Command at the Naval History Museum in Washington, DC. The Command History report essentially summarizes what is detailed in the ship's Deck Logs and is signed by that ship's Commanding Officer. It is accepted as official documentation to prove a ship's activities.

### **SUBMITTING PROOF FOR A BLUE WATER Boots-on-the-Ground CLAIM**

If your ship, or one you know of, is not listed by the VA on its Agent orange ships list but entered an Inland Waterway or sent crewmembers ashore in boats, the best thing you can do is to complete all the "homework" needed for the listing and submit it as a completed package. That way, the listing will not be delayed waiting on the VA to get the 'homework' done. You will be able to gather the data much quicker than the VA and you will know that what you submit contains everything needed and does not overlook something important. Here are some examples:

If your ship was in a harbor and anchored, and you went ashore in the motor whaleboat to get supplies, the Deck Logs for that day might possibly note that the motor whale boat or Liberty launch was in the water. However, it will rarely provide any details about who was aboard or what mission it was on. A Lay Statement describing the activities will be required. If the crew went ashore for liberty, the Deck Logs need to be submitted to show that the ship was in port for at least 4 to 6 hours. It is generally believed that if the time was any shorter than that, the crew would probably not have been allowed to leave the ship on Liberty, but that is a general rule, not a hard and fast rule. Additionally, there might be other items that would show the crew ashore, such as pictures from the Cruise Book, preferably with captions. A general ship's Liberty could then be proven by a copy of the Deck Logs for date/time entering port and date/time leaving port, along with the pictures/stories from the Cruise Book or the Captain's Newsletter explaining what happened during that period of time.

If your ship anchored somewhere offshore, but not in port, and the crew was ferried ashore in the motor whaleboat for liberty on the beach, a combination of the Deck Logs and the pictures from the Cruise Book showing a picnic on the beach could prove that point. In all cases, if this is a claim, it is still necessary to provide a statement that you actually went ashore, because the mere "opportunity" to go ashore is not enough proof in itself.

If your ship docked, the Deck Logs will report that. If you left the ship, even on a work party that went to the pier, your Lay Statement along with the Deck Logs will be what is needed.

Once you have all the pieces of evidence together that you need, they have to be scanned to PDF file format so they can attach to an email. If you want the Blue Water Navy Association to review the packet for completeness, you should email [navy@bluewaternavy.org](mailto:navy@bluewaternavy.org) and ask for a review for submission. If you are confident that you have everything needed, you can email the information directly to the VA at [211\\_AOSHIPS.VBACO@va.gov](mailto:211_AOSHIPS.VBACO@va.gov). We suggest that the Deck Log information pertaining to getting a ship on the Inland Waters Service List is both submitted with a claim and emailed to the Blue Water Navy Association or the VA directly. The Regional Office (R/O) is supposed to forward this sort of information to the Project 211 Office, but a packet of material should be sent directly to that office because the R/O sometimes doesn't forward what is needed, or not in a timely fashion. It is best just to do it yourself. Also note that when this information is being assembled to be included in an initial claim, the veteran needs all the appropriate information required for the claim (526EZ, Medical Records, and other forms of proof and required statements) as well as this information from the Deck Logs to be submitted to the Regional Office with their claim. We are not discussing the requirements for an entire claim for disability here, so some further homework is required in those situations.

## **WHAT ARE THE RULES GOVERNING BLUE WATER NAVY PRESUMPTIVE EXPOSURE?**

The Veteran Benefits Administration (VBA) has developed five rules which provide the guidelines for determining the conditions under which a Blue Water Navy veteran can prove boots-on-ground in Vietnam. These rules include designating a ship as having been on Inland Waters or the conditions for accepting lay statements for having boots-on-ground in lieu of providing any other documentation. VBA realizes that ships did not document arrivals and departures of personnel from the ship under normal operations unless the individual was a V.I.P. These VA rules are given as the preface to the Inland Waters Ship List. The rules may change over time, but as of today they provide the final word on VA Policy.

The Rules apply to Blue Water Sailors who departed ships and had brief visitation in Vietnam. VBA acknowledges that there was no documentation kept by the Navy to track most personnel who disembarked/embarked on the ships of the Seventh Fleet while offshore Vietnam. These rules are

applied to BWN Veterans who went ashore for liberty, for gathering supplies (including retrieving or delivering mail bags), and had brief on-shore activities for other reasons. These veterans only need to provide a Lay Statement declaring they had boots-on-ground. It is a good idea to also provide some brief statements regarding what ship they were on, how they got ashore, what they did while ashore, how they returned, and why it was THEM who went ashore as opposed to the guy standing next to them. In other words, did the veteran go to shore to complete a specific job in accordance with their rating?

## **DID YOU FLY INTO VIETNAM FROM OR ENROUTE TO YOUR SHIP AT SEA?**

Another possibility for having boots-on-ground might have occurred while reporting to or departing from a ship that was "on station" off the coast of Vietnam. Many times this included a flight on a helicopter, or from a COD Flight from an Aircraft Carriers. Initially, VBA was reluctant to include this last category of veteran under the rules for providing Lay Statements as proof. However, due to the Gray v. McDonald Ruling, the VA was instructed to "re-think" their definitions for granting Blue Water Navy claims to avoid being "arbitrary and capricious" in the application of guidelines for adjudicating claims.

One such potential of inconsistent rule application includes determining "Who is allowed to provide a Lay Statement as proof of having had boots on ground?" To avoid the arbitrary and capricious application of this rule, it must apply to all sailors who departed ships by whatever means resulting in their having had boots-on-ground. The following information is our suggestion about what information should be included in a claim for boots-on-ground by sailors who transited the airfields in Vietnam enroute to or from their duty assignment aboard a ship that was stationed off the coast of Vietnam at the time. It also applies to anyone sent ashore for Temporary Duty (TDY), such as those required to perform work on some specialty equipment or to supervise certain activities.

This information is offered without any guarantee that VA will agree with everything we suggest. We are suggesting the following guidelines for a Blue Water Navy boots-on-ground claim submission. *The request to reopen a claim must be filed on a VA Form 21-526EZ* [For other specific Form requirements, please contact a VSO.] The Statement of Claim can be submitted with an original claim, or it can be used as New and Material Evidence to open a previously denied claim for exposure to herbicide if this information was not previously submitted. There are several links to reference information in this suggested Statement of the Claim that should additionally be printed off and submitted with the claim so that all the information is at hand when the claim is reviewed. This entire packet of information should constitute a Fully Developed Claim when all the referenced information is included with the Statement of Claim. Read through each of the statements and decide how you will need to customize them for your own particular situation.

A Lay Statement is one in which the veteran describes what they experienced and contains information that the veteran is competent to provide. It cannot make statements of conditions that require specialized knowledge. For instance, a veteran can state that they fell and broke their arm. However, unless the veteran had medical training, they cannot say "I fell and broke my left radius." If a sailor is aboard ship when a boiler explodes, they can say "There was a huge explosion that blew holes in the deck and the hull." But unless they are specifically trained in engineering and did an extensive investigation, they cannot say "The steam lines feeding the primary generator became blocked and pressure chamber #2 overloaded." The difference is obviously in the language of the descriptive detail.

The Lay Statement is stronger if it is submitted as a Sworn Statement. A Sworn Statement is one that essentially says "All the above information is true, and if anything is found to be false, I know that I can be prosecuted, with possible jail time, for submitting a known false statement." A Sworn Statement usually holds more "probative value" than a Lay Statement. Our suggestion is to submit both: the lay

statement should contain all of the details and the Sworn Statement provides the basic proclamation that "I had my boots-on-ground in Vietnam." If you are not certain of the facts, such as a date or other detail, it should not be included in the Sworn Statement because it might later be discovered that you were mistaken about that issue.

The Statement of the Claim should be submitted first, followed by copies of applicable items that were mentioned within that Statement, such as:

- Story on the Fleet Air Support Unit, Da Nang
- The Inland Water Rules used by the VBA
- The Gray Court Ruling
- Next should be the Lay Statement and/or the Sworn Statement.
- Next should come the Ship Deck Logs for the date that you left the ship and then the Log for the day you returned to the ship or reported aboard the ship, depending on your circumstances. Submitting the Deck Log pages will show that your ship was "off shore, on station" indicating that the only way you could have gotten on or off was by air. Your Personnel Records may not show this, but air traffic on or off a ship on station almost always required a landing in Vietnam to transfer to a flight to your final destination. Your Deck Log pages have a Cover Page briefly stating this fact, so that the Claim Rater understands that you are showing that you left or returned to the ship while it was on station and only accessible by an air flight from the Vietnam Mainland.
- Then any Medical Records that apply to your situation. Many veterans with medical problems or injuries on-board were sent to the Mainland, or even back to Subic Bay, for treatment. These are usually well dated documents showing time and place of treatment. If that was why you left the ship, you should submit a description explaining your situation to act as a cover sheet for the Medical Records. That explains what those Medical Records indicate by their dating: That the movement to and from the ship on station would have required the use of local air transport to move the veteran from ship to shore (because the Deck Logs will show the ship was several miles from land when the veteran left or returned).
- Remember to put your claim number on the top of each page you submit.

There will be special circumstances surrounding each claim, but these generalized suggestions should provide the veteran and their VSO with a useful outline to follow for many of the typical situations where a Blue Water Navy veteran can claim presumption of exposure by virtue of having had boots-on-ground or its equivalent.

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Many thanks to John Rossie, Executive Director, Blue Water Navy Association:  
<http://bluewaternavy.org/> for the above information