Scripts for BLUE Water Navy: Regional Office BWN Claims Training

Slide 1 (Title Slide)

Hello, this training will be covering the new Blue Water Navy Vietnam Veterans Act of 2019. We will be discussing the changes that come along with this law, as well as the policies and procedures that will be implemented across VBA in order to develop these claims. This course will focus on the steps to take during the initial development of original claims as it relates to conditions/contentions related to Herbicide exposure.

Slide 2 (Objectives)

Our objectives for today’s training will be to fully understand what this law means for Blue Water Navy Veterans, and how we will develop these claims going forward. We will also review what to look for, and what tools to use, to verify service in the Republic of Vietnam.

Upon completion of the training, you will be able to:

1. Identify the types of Vietnam service,
2. Establish the required special issue,
3. Develop for required evidence,
4. Identify the presumptive conditions associated with herbicide exposure,
5. Complete the steps required to route claims to the Centralized Processing Regional Offices.

Slide 3 (References)

These are the references regarding the new law, to include the law itself, Public Law (PL) 116-23, which we will be going over in today’s training.

Slide 4 (Background)

First, I would like to provide a little background into the history of the new law and where we are today.

Slide 5-6 (Recognition of Herbicide Exposure)

These changes began with the case Procopio V. Wilkie (2019), which was a case that sought to extend the presumption of herbicide exposure to those Veterans who served in the offshore waters of Vietnam. This was defined as serving in the seas of the Republic of Vietnam, or 12 nautical miles from the land mass.

Prior to the enactment of this new law, the VA extended a presumption of herbicide exposure to any Veteran who served on the ground or on the inland waterways of the Republic of Vietnam between January 9, 1962, and May 7, 1975 based upon 38 U.S.C.§ 1116(a)(1).

Slide 7 (Recognition of Herbicide Exposure)

Following this, PL 116-23, or the Blue Water Navy Vietnam Veterans Act of 2019, was enacted on June 25, 2019. This put into law many of the components of Procopio V. Wilkie. It expanded the definition of what qualifies as nautical service in Vietnam, to include the offshore waters. A stay was issued on July 1, 2019. These changes are set to go into effect on January 1, 2020. We will explore this law further throughout today’s training.

Slide 8 (Definitions)

So, what do we mean when we say inland waterways and eligible offshore waters? Inland waterways are those that would be freshwater, such as rivers and streams around the mainland. However, eligible offshore waters (as referred to in the new law) constitute the waters within 12 nautical miles seaward of a line commencing on the southwestern demarcation line of the waters of Vietnam and Cambodia and intersecting the coordinates that can be found in PL 116-23.

Slide 9 (Specific Geographic Locations Determined to be Inland Waterways)

The inland waterways are noted to be all fresh water rivers within Vietnam, all streams, canals and all navigable waterways within the perimeter of land-type vegetation. This is particularly applicable to the marshes found in the Rung Sat Special Zone and other Vietnam coastal areas.

Please note Veterans are not required to state that they went ashore when evidence is sufficient to verify, they were aboard ships that operated on inland waterways during the specified time periods.

Slide 10 (Definition of Eligible Offshore Waters)

VA will recognize service in the eligible offshore waters as service in the Republic of Vietnam effective January 1, 2020. The eligible offshore waters include the seas of the Republic of Vietnam, which, under international law extends 12-nautical miles from an established baseline.

Service in the eligible offshore waters of Vietnam during the time period beginning on January 9, 1962 through May 7, 1975, now qualifies a Veteran for presumption of herbicide exposure based on service in the Republic of Vietnam as defined in 38 CFR 3.313.

It is important to note Regional Office staff are not authorized to make the evidence-based determination regarding eligible offshore waters of the Republic of Vietnam. This function is designated solely to the Records Review Specialists for consistency and recordkeeping purposes, and their determination is binding on Regional Offices, Pension Management Centers and Decision Review Operation Centers or DROCS.

Slide 11 (Centralized Processing)

* VA is requiring centralized processing of all affected herbicide claims based on Vietnam era service
* Centralized processing teams will analyze, research, and document a Veteran’s service in the RVN which includes:
  + centralized processing for determining the category of RVN service
  + creation of the Records Research Specialists Team to conduct additional research of complex cases
* Centralized processing teams will determine if the Veteran
  + had service in Korea or Thailand
  + had duty or visitation on land in the RVN
  + served on a ship that was in the
    - eligible offshore waters, to include visitation of a qualifying bay or harbor, or
    - inland waterways.
* Centralized processing of rating and authorization activity for all claims impacted by the new law

Slide 12 (Centralized Processing)

All Blue Water Claims will be processed at 8 designated regional offices. Those offices are:

St. Louis

Cleveland

Waco

St. Paul (VSC/PMC)

Roanoke

St. Petersburg

Phoenix

Salt Lake City

These claims will be routed to the Designated regional offices by NWQ

Slide 13-14 (Herbicide Exposure: New Claim Received)

Establish the appropriate EP (110, 010, 020, 030, 040, 140, 165) for all claimed condition(s)

(1) Does claim include AO issues?

(2) If no = process under normal claims procedures

(3) Was criteria under 38 CFR 3.307(a)(6) met?

(4) If no = process under non BWN procedures

(5) If yes = then check, were non- 38 CFR 3.309(e), conditions listed?

(6) Is scientific or medical evidence available?

(7) If yes : Is DD214/ STR’s/OMPF of record? : (8) Add BWN AO Special Issue to all BWN Contentions.

(9) If no: Request DD214/STR’s/OMPF : Add Secondary action required then Add BWN Special Issue

(10) If no Medical evidence: Send development letter to Veteran requesting scientific or medical evidence.

(11) Was medical evidence received: no – process under non-BWN procedures

(12) yes Go to Step 7

Reminder: Development to the Veteran for Medical evidence and request for STR’s/DD214/OMPF should occur simultaneously

Note: All claims that fit the criteria of BWN will be routed to the Centralized processing RO’s by the NWQ.

Slide 15 Herbicide Exposure: Supplemental Claims

Supplemental claims (Veteran or survivor) for service connection for a disease associated with herbicide exposure

* Establish EP 040 for all claimed condition(s).
* Process flow for supplemental claims will follow the same path as non-supplemental claims

Slide 15 (Herbicide Exposure: Supplemental Claims)

Supplemental claims (Veteran or survivor) for service connection for a disease associated with herbicide exposure

Establish EP 040 for all claimed condition(s).

Process flow for supplemental claims will follow the same path as non-supplemental claims

Included with this training will be a process map that will lay out the flow of claims that are associated with Agent Orange exposure.