

Court Expands Coverage for Vietnam Vets  
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The U.S. Court of Appeals for Veteran Claims has announced a landmark decision in the case of *Haas v. Nicholson*. This ruling could directly affect thousands of disabled Vietnam-era Navy veterans.

The Court's ruling states that Veterans Affairs requirement for “boots on the ground” as the definition of “service in the Republic of Vietnam” is unreasonable, and does not align with Congress's intent. In addition the law does not limit application of the presumption of service connection for herbicide exposure to those who set foot on the soil of the Republic of Vietnam. The Court cited that the law defines “service in the Republic of Vietnam” as including “service in the waters offshore, or service in other locations if the conditions of service involved duty or visitation in Vietnam.”

According to court documents the unclear nature of the policy was further demonstrated when Secretary Nicholson was asked to apply the regulatory interpretation in the case of a veteran who served in the waters off of Vietnam, in water where his feet did not touch the seabed, versus a veteran who was in the waters where he was able to touch the seabed, he responded that neither veteran would be entitled to the presumption because the regulatory definition is limited to those veterans “who set foot on land, if you will boots on ground, not touching the ocean floor.” When later asked if there was a difference between the case of a veteran who served on a vessel floating up a river - which, according to the Secretary's argument, could be miles wide - who never touched land within the Republic of Vietnam, and a veteran who served on a ship within 100 feet of the shoreline who never touched the land, the Secretary simply responded, without rationale, that the **latter** form of service would not warrant application of the presumption of service.

The Court's opinion further states that VA's regulation defining “service in the Republic of Vietnam” is ambiguous and that VA's interpretation of the regulatory term “service in the Republic of Vietnam,” allowing the application of the presumption of exposure to herbicides only to Vietnam-era veterans who set foot on land, is “inconsistent with longstanding agency views, plainly erroneous in light of legislative and regulatory history, and unreasonable, and must be SET ASIDE.”

**Note:** The Court also found that the VA changed the Adjudication Procedure Manual to exclude receipt of the Vietnam Service Medal (VSM) as a definition of “service in the Republic of Vietnam” in 2002. The Court's decision may force VA to rethink this policy change.

The elimination of the requirement for “boots on ground” will mean that Blue Water Navy Vietnam veterans can now file claims based on service in the Republic of Vietnam including “service in the waters offshore.”

This decision may open the floodgates to millions of Vietnam-era disability claims. Navy Vietnam veterans are encouraged to contact their local Veterans Service Officer as soon

as possible to determine if they are eligible to receive disability benefits based on this ruling.