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# HOW TO USE THE DA NANG HARBOR REPORT

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## Everyone Should File for Direct Exposure

The boots-on-ground doctrine needs to be reassessed. The advantage of having boots-on-ground is to provide "the presumption of exposure to herbicides in Vietnam." It is a claim based on probability and uncertainty. I would like to suggest an alternative for eligible Navy, Coast Guard and Fleet Marine veterans. It is using ["The Da Nang Harbor Report"](#) as proof of Direct Exposure to herbicide if you were ever in Da Nang Harbor.

The data which backs "The Da Nang Harbor Report" are military and industry reports and observations from the Vietnam War era to the present. There is no record of actual tests made or samples taken during the Vietnam War to provide a direct measurement of herbicide contamination from that era. The only "evidence" exists in this Report, taken from written documents that were created during the Vietnam War by first hand observations. Additionally, we know that Da Nang remains one of the two most toxin-polluted locations in Vietnam, 40 years after. These documents have been accepted as accurate presentations of fact.

The SOURCES section at the end of the Report provides direct access to copies of these first hand observations and later assessment reports as well as other facts of interest. There is no "other data" available from that era. There is only opinion and speculation. We have avoided both those elements in the development of "The Da Nang Harbor Report."

The Department of Veterans Affairs (DVA) has no additional documentation from that era. There can be no legitimate refuting of the conclusions of this Report without dismissing the historical documentation presented here. Such a move would be highly irrational without throwing the entire history of the Vietnam War into chaos. DVA does now and has in the past attempted to 're-write history' by putting out their own misinterpretation of facts in various formats. However, in this instance, such an opportunity is not available to them.

Therefore, use this Report with confidence. If you were in Da Nang Harbor at any time during the Vietnam War, you were directly exposed to herbicide contaminants, mainly dioxin, through at least inhalation. If your ship kept its evaporative water system on line in order to run the boilers, your potable water was contaminated with dioxin. If you were physically in the water for any reason, or were splashed with the water or even felt the water spray from any source such as ship movement within the harbor, you were contaminated, through skin absorption and ingestion, with dioxin or other lethal by-products of the herbicides used at that time.

In filing your claim, there is a concept that has caught my attention and which may easily apply here. It is "plausible causality." I read that as saying:

- You were there, which is documented;
- Harmful herbicides were there in the area you were in, which is documented;
- You were in extremely close proximity to the harmful herbicides;
- You have the medical problems acknowledged to be caused by herbicides;

- Even though there is no specific documentation of your exposure, your presence should be sufficient to concede exposure, based on the definition of exposure\* and the lack of documentation to the contrary;
- When all of these factors are examined, “there is at least a plausible causality [of your exposure,] based upon objective facts.

Please refer to the Board of Veterans Appeals’ ruling [Nr. 0928523](#) of 07/30/2009.

You will not need to apply for “the presumption of exposure to herbicides in Vietnam.” You now have proof of Direct Exposure as presented in this Report. If you were ever denied a claim for exposure to herbicides, and/or if you now suffer from one of the Agent Orange diseases, I recommend that you apply for the benefits available for those with direct herbicide exposure. If you were previously denied, file for a re-opening of your case using this Report as ‘new and material evidence.’ If your claim is granted, the VA is obligated by the Nehmer Ruling to pay back to the date of first claim. This also applies to widows and survivors of Vietnam veterans who have died from a disease listed as associated with Agent Orange. Ask your Veteran Service Officer to help you make a claim filing, applying the elements of the Nehmer Ruling to your claim. Also, be sure to clearly state you want to be adjudicated under 38 CFR 3.303, and NOT under 38 CFR 3.307 or 38 CFR 3.309, which form the basis of the presumption of exposure.

“The Da Nang Harbor Report” was written after extensive research. Each SOURCE number will take you to a document within <http://bluewaternavy.org/harbors.htm>. That section contains additional material that relates to this Report and was reviewed for this Report but not necessarily cited by a SOURCE identification number. After you review this Report, you can only come to the conclusion that being in Da Nang Harbor was sufficient to establish Direct Exposure.

\*Exposure is the condition of being subjected to something, as to infectious agents, extremes of weather, or radiation, which may have a harmful effect.

I suggest that every service member who was in Da Nang Harbor submit a claim using this Report as their evidence for Direct Exposure.

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We are not accredited Veteran Service Officers and offer only ideas for you to ponder.

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