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Veteran Status Based on Service with Certain Civilian Groups

Throughout history, civilians have played a role in supporting U.S. Armed Forces both at home and abroad. In some circumstances, civilians have deployed to a theater of combat as government employees or defense contractors in support of military operations. In these circumstances there may be questions regarding whether individuals would be eligible for benefits from the U.S. Department of Veterans Affairs (VA) due to illness or injuries sustained during their work alongside the Armed Forces. Generally, these individuals do not meet the statutory definition of *veteran* found in Title 38, Section 101(2), of the *U.S. Code*, because they do not meet the “active military service” and “discharge under other than dishonorable conditions” requirements. However, in limited instances, Congress has designated services provided to the U.S. Armed Forces by certain civilian groups as active military service and granted veteran status to these groups so that their members may be eligible for VA benefits. In 1977, Congress granted the authority to the Secretary of the Department of Defense (DOD) to designate services provided by civilian groups as “active military service” for eligibility to receive VA benefits. In addition, those who do not have active military service may be eligible for worker’s compensation through the Federal Employees’ Compensation Act.

This In Focus explains the limited circumstances through which members of certain civilian groups may be eligible for VA benefits. It also provides examples of a few civilian groups that have been granted “veteran” status during the 20th and 21st centuries.

Overview

In certain circumstances, groups of civilians who participated in wartime activities are granted eligibility for all VA benefits available to former servicemembers who meet the statutory definition of *veteran*. The GI Bill Improvement Act of 1977 (P.L. 95-202) recognized service with the Women’s Air Forces Service Pilots (WASPs, a civilian group) as active military service and specified criteria for groups to be granted active military service pursuant to DOD regulations. This includes members of civilian or contract employment groups who render services for the U.S. Armed Forces in a similar way as the WASPs. P.L. 95-202 also granted the Secretary of Defense the authority to certify whether service for the Armed Forces by a group of civilians or contractors is considered active military service and to issue a discharge under honorable conditions. On February 28, 1979, DOD’s final rule implemented the provisions of P.L. 95-202 (44 *Federal Register* 11220).

Under this rule, the Secretary of Defense delegated the authority to grant active military service status to members of certain civilian or contractor groups to the Secretary of

the Air Force. The determination to grant this status is based upon specific criteria such as the group having rendered services through civilian employment in a manner similar to the WASPs as a result of a contract to provide direct support to U.S. Armed Forces during a period of armed conflict. Upon the designation of active military service, the respective service secretaries will issue discharge paperwork. As a result, civilian individuals with both active military service and honorable discharge statuses can be made eligible for VA benefits.

In addition, the rule established the DOD Civilian/Military Service Review Board to review each application for active military service status. DOD Directive 1000.20, *Active Duty Service Determinations for Civilian or Contractual Groups*, requires a representative from the civilian or contracted employer group to submit such applications. The Secretary of the Air Force has the final decision authority following the board’s review and recommendation on whether the applicant group should be considered as having performed active military service.

Civilian Groups with Active Military Service

To date, the Air Force Secretary has granted active military service to members of selected civilian groups for services provided to the U.S. Armed Forces. The majority of these groups participated in World War I and World War II, including those groups identified in Title 38, Section 3.7, of the *Code of Federal Regulations*. Below are examples of some of the civilian groups considered having performed active military service under Section 401 of P.L. 95-202:

- Women’s Air Force Service Pilots,
- Signal Corps Female Telephone Operators Unit (World War I),
- Engineer Field Clerks (World War I),
- Male Civilian Ferry Pilots (World War II),
- Women’s Army Auxiliary Corps, and
- other groups of employees with war-related occupations listed in Section 3.7 or determined by the Air Force Secretary.

The most recent designation was made regarding a civilian group that served during the Vietnam era. On January 21, 2020, the DOD Civilian/Military Service Review Board and Department of the Air Force published a notice recognizing “Navy civilian Special Agents” as having performed active service in Vietnam between January 9, 1962, and May 7, 1975 (83 *Federal Register* 3339).

Members of certain civilian groups who are considered to have veteran status based upon meeting the criteria in P.L. 95-202 are eligible for benefits administered by VA. These benefits include disability compensation, pension, health care, and burial benefits administered through VA. Pursuant to legislation enacted on May 20, 2016 (P.L. 114-158), these individuals may also be eligible for inurnment in the columbarium or niche wall at Arlington National Cemetery but not in-ground burial. Arlington National Cemetery may have additional requirements as it is under the Department of Army's jurisdiction and not VA authority.

Veteran Status for Merchant Mariners

In some cases merchant mariners—members of the U.S. Merchant Marines—may also qualify as veterans for purposes of eligibility for VA benefits. Whether a merchant mariner can qualify as a veteran depends largely on when the mariner served.

Merchant mariners performed support roles to the U.S. Armed Forces during World War II, the Korean War, and the Vietnam era. Before 1950, merchant mariners were part of the U.S. Maritime Commission (created in 1936) and the War Shipping Administration (created in 1942). After 1950, merchant mariners (including those who provided support in Korea and Vietnam) became part of the Maritime Administration, created by President Harry Truman. These individuals could have served as either civil service mariners or strategic sealift officers, which then determines the individual's qualification as a veteran.

Civil Service Mariners

Merchant mariners are a unique group of individuals, as there is a difference between those who serve within the U.S. Navy's Military Sealift Command and those who are hired as federal civil service mariners (CIVMARs). This difference affects the individual's ability to claim veteran status and eligibility for VA benefits. Although CIVMARs may work on ships transporting supplies and equipment to U.S. Armed Forces around the world, they do not hold military status. While these individuals have certain conditions for employment, such as maintaining Merchant Mariner Credentials issued by the U.S. Coast Guard, their service does not qualify as active military service for the purpose of establishing veteran status. In addition, when CIVMARs leave employment with Military Sealift Command, they are issued a Standard Form 50, *Notice of Personnel Action*, which is proof of federal employment only and not of military service.

World War II Civil Service Mariners

CIVMARs who served during World War II are considered veterans and are eligible for VA benefits. In January 1988, the Secretary of the Air Force determined that merchant mariners who served between December 7, 1941, and December 31, 1946, performed active military service, which made this group eligible for VA benefits. As explained in Title 38, Section 3.7(x), of the *Code of Federal Regulations*, these groups included

- U.S. Merchant Seamen who served on blockships in support of Operation Mulberry in World War II; and
- American Merchant Marine personnel who served in oceangoing service during the period of armed conflict between December 7, 1941, and August 15, 1945.

In addition, pursuant to Section 402 of the Veterans Programs Enhancement Act of 1998 (P.L. 105-368), a certain group of merchant mariners may be eligible for only VA burial benefits to include interment in a VA national or a VA-funded state veterans cemetery. The individuals who may qualify for VA burial benefits were members of the U.S. Merchant Marine, Army Transport Service, or Naval Transport Service who served between August 16, 1945, and December 31, 1946.

Strategic Sealift Officers

An individual who has gone through a specific educational program to become a strategic sealift officer (SSO) may be granted veteran status and therefore eligible for VA benefits. There are a limited number of programs in the U.S. that can train SSOs, including the U.S. Merchant Marine Academy. By attending the academy or another institution that has a Strategic Sealift Midshipman Program, the individual will be commissioned in the U.S. Navy Reserves as an SSO. As described in statute, these individuals are required to serve eight years of service following their commissioning.

Commissioned officers in the U.S. Navy Reserves are eligible for VA benefits so long as they meet the statutory requirements for “veteran” and “active duty.”

Additional Relevant Resources:

Office of the Secretary of Defense, “Part 47 - Determinations of Active Military Service and Discharge: Civilian or Contractual Personnel,” 44 *Federal Register* 11220-11226, February 28, 1979.

DOD Civilian/Military Service Review Board, Department of the Air Force, “Active Duty Service Determinations for Civilian or Contractual Groups,” 85 *Federal Register* 3339, January 21, 2020.

CRS Report R47299, *U.S. Department of Veterans Affairs: Who Is a Veteran?*

CRS Report R42107, *The Federal Employees' Compensation Act (FECA): Workers' Compensation for Federal Employees.*

CRS Report R46813, *Department of Veterans Affairs: Burial Benefits and the National Cemetery Administration.*

CRS In Focus IF11868, *The United States Merchant Marine Academy.*

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