

The Situation

- During Operations Desert Shield/Desert Storm (1990-1991) and since, burn pits were utilized not only in Iraq, but also in Kuwait, Oman, Qatar, United Arab Emirates, Saudi Arabia and Bahrain. Since September 11, 2001, burn pits have been used throughout the operations in Afghanistan and Djibouti, as well as in Iraq after March 20, 2003. Recently, the Department of Defense (DOD) acknowledged exposures in Syria and Egypt.
- Several studies have indicated that veterans were exposed to airborne toxins from burned waste products including, but not limited to: plastics, metal/aluminum cans, rubber, chemicals (such as paints, solvents), petroleum and lubricant products, munitions and other unexploded ordnance, wood waste, medical and human waste, and incomplete combustion by-products. The pits did not effectively burn the volume of waste generated, and smoke from the burn pit blew over bases and penetrated all living areas.
- Currently, the Department of Veterans Affairs (VA) does not provide presumption of service connection for diseases related to burn pit exposure, but continuing research may soon establish such links. Furthermore, existing statutes do not concede exposure to toxins from burn pits for those serving in areas known to have active burn pits.

The Challenge

- Because there is no current presumptive service connection, veterans must file claims for direct service connection for diseases and illnesses related to burn pit exposure. In order to establish direct service connection for a related illness or disease, there must be (1) medical evidence of a current disability; (2) evidence of burn pit exposure; and (3) evidence of a nexus between the burn pit exposure and the current disability.
- According to VBA, from June 2007 through May 2020, it adjudicated 12,517 direct service connection claims for diseases related to burn pit exposure. Roughly 80% of those claims have been denied.
- While we know, in general, where burn pits were used, it can be difficult to document each individual veteran's exposure to a burn pit, especially during combat operations and in war zones. This becomes a significant barrier for veterans trying to prove their burn pit exposure to establish service connection. If a veteran is able to prove their exposure to burn pits, they still must obtain a medical opinion linking their disease or illness to the exposure. Obtaining a medical opinion can be difficult if medical professionals are not aware of the actual chemicals and toxins emitted from burn pits.
- In September 2020, the National Academies of Science, Engineering and Medicine completed its report, "Respiratory Health Effects of Airborne Hazards Exposures in the Southwest Asia Theater of Military Operations," and concluded that there was inadequate or insufficient evidence to

determine associations between exposure to toxins from burn pits and respiratory-related conditions.

- Combat veterans who were discharged or released from active service on or after January 28, 2003, are eligible to enroll in the VA health care system for five years from the date of discharge or release. However, this does not address many of the illnesses or diseases that develop after the five-year period, such as cancers and multisystem diseases, which may be linked to their exposure to toxins from burn pits. Veterans exposed to burn pits may have no alternatives for health care beyond the established period.
- Currently, 38 U.S.C. Section 1710 allows for VA health care for veterans exposed to a toxic substance, radiation, or other conditions. However, this does not specifically address those veterans exposed to burn pits.

The Solution

- Congress should enact legislation to concede burn pit exposure for veterans currently eligible to join the VA Airborne Hazards and Open Burn Pit Registry. It should concede their exposure to the same chemicals and toxins noted in VA's M21-1 Manual, including but not limited to: (1) Particulate matter; (2) Polycyclic Aromatic Hydrocarbons (PAH); (3) Volatile Organic Compounds; and (4) Toxic Organic Halogenated Dioxins and Furans (dioxins).
- A concession of burn pit exposure will not establish presumptive service connection; however, it will remove the requirement for veterans having to prove their individual exposure to burn pits and the types of toxins emitted from such pits for disability claims based on direct service connection.