
Ensure Veterans Exposed to Toxic Substances Receive Full and Timely Benefits, Particularly for Burn Pits, Agent Orange and Other Known Exposures

The men and women who serve are often placed in situations that have long-term health effects that will impact their individual functioning, often results in industrial impairments, which require physical rehabilitation and future health care. When service members are subjected to toxins and environmental hazards, our sense of duty to them must be heightened as many of the illnesses and diseases due to these toxic exposures may not be identifiable for years, even decades, after they have completed their service.

Although there has been some notable progress achieved over the past two decades for veterans who suffered illness due to toxic and environmental exposures, there are still too many who have yet to receive the full recognition, health care and benefits our nation owes to them.

Burn Pits and Concession of Exposure

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.

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. Since there is no current presumptive service connection for burn pit exposure, veterans must file claims for direct service connection for diseases and illnesses related to burn pit exposure. From 2007 to 2018, the VA received over 11,000 claims specific to burn pit exposure and denied 80% of those claims. Many of these denials are due to veterans not knowing what toxins they were exposed to, thus impeding their ability to obtain a medical opinion relating the condition to the specific toxins.

One way to overcome this is to concede burn pit exposure for veterans currently eligible to join the VA Airborne Hazards and Open Burn Pit Registry as well as 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.

- **Congress should enact S. 2950, as it will concede burn pit exposure and remove the obstacles for veterans having to prove their individual exposure to burn pits and the types of toxins emitted, for claims based on direct service connection.**

Pending Agent Orange Presumptive Diseases

Notwithstanding numerous laws and regulations governing how the VA makes “presumptive” decisions, there are still gaps and breakdowns that have left some veterans, particularly Vietnam veterans, waiting years for their exposure to be recognized or their diseases to be associated with Agent Orange. Originally, the Agent Orange Act of 1991 included provisions requiring timely action by the VA Secretary when reports from the National Academies were received recommending adding new diseases associated with Agent Orange exposure; however, those provisions expired in October 2015.

The Persian Gulf War Veterans Act of 1998, codified at 38 U.S.C. § 1118, originally had these same types of time-required actions by the Secretary; however, those requirements expired on October 1, 2011. None of the other presumptive toxic exposures have time requirements for the Secretary to act, which means there are no current time requirements on the Secretary to act on any recommendations made by the National Academies in reference to any additional diseases related to toxic exposures.

The National Academy of Medicine's "Veterans and Agent Orange" 2014 update, published in 2016, concluded that there was compelling evidence for adding bladder cancer and hypothyroid conditions as presumptive diseases. Further, the study clarified that Vietnam veterans with "Parkinson-like symptoms," but without a formal diagnosis of Parkinson's disease, should be considered under the presumption that Parkinson's disease is service connected.

The December 2018 National Academy of Medicine report notes there is sufficient evidence of a relationship between hypertension and Agent Orange and recommended it to be added to the presumptive list. VA internal documents reveal that the Administration challenged the previous Secretary's authority to add the presumptive diseases and even impeded action. Bladder cancer, hypothyroidism and "Parkinson-like symptoms" have been held up for more than three years while veterans are suffering and dying from these diseases. Even more troubling is the Administration is outweighing the cost of adding these diseases over those who are in dire need.

- **Congress should enact legislation, such as H.R. 2200 or H.R. 5610 to add the presumptive diseases of hypertension, bladder cancer, hypothyroidism and "Parkinson-like symptoms," which the National Academy of Medicine has scientifically associated to Agent Orange exposure.**

Presumptive Decision-Making Framework

The presumptive processes and the presumptive decision-making process are not consistent among all of the different types of exposures. Which means that not all presumptive processes are the same when it comes to establishing concession of exposure, adding new diseases linked to the exposure, identifying requirements for additional studies, or the requirements for the Secretary to act on adding new diseases linked to exposure.

- **To provide consistency, an overall presumptive processes framework needs to be established by Congress. This framework would apply to all future exposures and presumptive diseases which should include requirements for future studies on all presumptive toxic exposure related diseases, a time requirement for action from the Secretary, and upgrade of the classifications of scientific association.**

Additional Toxic Exposures

As we have established, our service men and women are consistently exposed to dangerous locations and harmful environments with contaminants and toxins. Veterans need Congressional action to ensure the VA continues to expand known exposures, like Agent Orange in Thailand, and to study the adverse long-term health effects of other toxic exposures such as Ft. McClellan and PFAS contaminated water found at 401 military installations.