

## **Ensure Veterans Who Were 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 resulting 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. 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. 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. In the period 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. 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.

In September 2020, the National Academies of Science, Engineering and Medicine completed their report "Respiratory Health Effects of Airborne Hazards Exposures in the Southwest Asia Theater of Military Operations," which concluded that there was inadequate or insufficient evidence to determine associations needed for presumptives. However, instead of waiting for more studies and presumptive service connection, Congress can take action now and enact a concession of exposure for burn pits.

- **Congress must enact legislation to 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.**

### **Presumptive Diseases and Positive Scientific Association**

The Department of Veterans Affairs (VA) has established several toxic exposures as presumptive with conceded exposures and diseases scientifically linked to the exposure. Some established presumptive processes have statutorily required future reports to continue assessing the long-term negative health impacts. However, over the past four years, VA has failed to add diseases that have been determined to have a positive scientific association with those known exposures and it took Congress to add the three diseases of bladder cancer, hypothyroidism and Parkinsonism.

The National Academies of Science, Engineering and Medicine (NASEM) update, “Veterans and Agent Orange,” published in 2016, noted that although the Department of Veterans Affairs (VA) has not found hypertension to be presumptively related to service in Vietnam, the committee reaffirmed the conclusions of previous studies that hypertension should be placed in the category of limited or suggestive evidence of association. The VA study, “Herbicide Exposure, Vietnam Service, and Hypertension Risk in Army Chemical Corps Veterans” found that exposure to herbicides is “significantly associated” with the risk of hypertension, or high blood pressure, in members of the Army Chemical Corps.

The December 2018 NASEM updated report reviewed the VA study and stated there is sufficient evidence of a relationship between hypertension and monoclonal gammopathy of undetermined significance (MGUS), and Agent Orange exposure.

VA has not included hypertension and MGUS as presumptive diseases, although these conditions were scientifically associated with Agent Orange more than two years ago. Thousands of veterans suffering from hypertension, its serious negative health impacts and complications, as well as MGUS need access to VA preventative health care and benefits. Since VA has failed to take timely action on bladder cancer, hypothyroidism and Parkinsonism as presumptive diseases, we call on Congress to intervene and enact legislation to add hypertension and MGUS.

- **Congress must enact legislation to include hypertension and MGUS as presumptive diseases linked to Agent Orange exposure.**

### **Toxic Exposures at Karshi-Khanabad (K2)**

Karshi-Khanabad Air Base, known as K2, is a former Soviet air base in southeastern Uzbekistan that shares a border with northern Afghanistan. Over 15,000 U.S. service members were deployed to the U.S. established Camp Stronghold Freedom at K2, which was used to support combat missions from 2001 to 2005. While it was a Soviet air base, K2 had contained chemical weapons, enriched uranium and soil saturated with fuels and other solvents that formed a “black goo.” Air samples at the base found elevated levels of tetrachloroethylene as well as the residuals of chemical weapons including cyanide in the showers. Other health assessment tests found the base had elevated levels of volatile organic compounds and total petroleum hydrocarbons (TPH) were detected at numerous locations throughout Stronghold Freedom.

A U.S. Army study from 2015 found that veterans exposed at K2 have a 500% increased likelihood of developing cancer to include malignant melanoma and neoplasms of the lymphatic and hematopoietic tissues.

The VA does not recognize service at K2 as exposure to any of the listed exposures; thus, there are no presumptives or a concession of exposure for these veterans nor are they eligible for VA health care based solely on these exposures. However, in April 2020, VA confirmed it will study health trends among the thousands exposed.

- **Congress must enact legislation to allow K2 veterans access to VA health care by amending 38 U.S.C. Section 1710 as well as expediting all studies and research on the toxic exposures at K2.**

### **Presumptive Decision-Making Framework**

The presumptive processes and the presumptive decision-making process are not consistent among all of the different types of exposures. This 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. DAV is concerned Congress and VA will continue to provide piecemeal legislation or regulatory provisions without addressing these much larger issues facing exposed veterans today and in the future.

- **An overall presumptive process framework needs to be established by Congress to provide consistency that must: 1) improve DOD and VA data collection and record-keeping; 2) establish a concession of exposure or recognition of the toxic exposure; 3) require statutorily mandated future studies on known exposures; 4) provide a time requirement for action by the VA Secretary; 5) maintain the standard of positive association vs. causation; and 6) update 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, PFAS contaminated water found at over 600 military installations, and the Camp Lejeune contaminated water.