



THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

October 2, 2024

The Honorable Jon Tester
Chairman
Committee on Veterans' Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

In accordance with 38 U.S.C. § 1119(b)(3) as created by section 302 of the Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics (PACT) Act of 2022, P.L. 117-168, I am submitting a report identifying any additions or removals to the list of toxic exposure presumptions established and maintained under 38 U.S.C. § 1119(b)(2). This report identifies the result of a formal evaluation on whether to establish an end date for a covered Veteran to qualify for presumptions of exposure to one or more substances, chemicals, and airborne hazards. VA remains committed to honoring the Nation's Veterans by ensuring a safe environment to deliver exceptional health care.

In addition, as required by 38 U.S.C. § 116, I am including a statement of cost for preparing the report. I have provided this report to the leaders of the House and Senate Committees on Veterans' Affairs.

Sincerely,

A handwritten signature in black ink, appearing to read "DMcDonough", written in a cursive style.

Denis McDonough

Enclosures

DEPARTMENT OF VETERANS AFFAIRS



Congressionally Mandated Report: Presumption of Specific Toxic Exposure for Members Who Served in Certain Locations

October 2024

Legislative Language

Pursuant to P.L. 117-168 § 302, under 38 U.S.C. § 1119(b)(3), this report fulfills the initial requirement outlined in the Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics (PACT) Act of 2022:

(b) Presumption of Specific Toxic Exposure for Members Who Served in Certain Locations. -

(1) The Secretary shall, for purposes of § 1110 and chapter 17 of this title, presume that any covered veteran was exposed to the substances, chemicals, and airborne hazards identified in the list under paragraph (2) during the service of the covered veteran specified in subsection (c)(1), unless there is affirmative evidence to establish that the covered veteran was not exposed to any such substances, chemicals, or hazards in connection with such service.

(2) The Secretary shall-

(A) establish and maintain a list that contains an identification of one or more such substances, chemicals, and airborne hazards as the Secretary, in collaboration with the Secretary of Defense, may determine appropriate for purposes of this section; and

(B) determine, using procedures consistent with § 1172 of this title and through the conduct of a formal evaluation under § 1173 of this title, whether to establish an end date for a covered veteran to qualify for presumptions of exposure under this section, if appropriate, but in no case establish an end date earlier than the last day of the period specified in section 101(33) for the Persian Gulf War.

(3) Beginning not later than two years after the date of the enactment of the Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics Act of 2022, and not less frequently than once every two years thereafter, the Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report identifying any additions or removals to the list under paragraph (2) during the period covered by the report.

Background

In August 2021, the Department of Veterans Affairs (VA) established a presumption of exposure to fine particulate matter (PM2.5) and identified the qualifying locations and timeframes. Based on the presumption of exposure, VA established a presumption of service connection for asthma, sinusitis, and rhinitis. In April 2022, VA added nine rare

respiratory cancers as presumptions based on presumed PM2.5 exposure. This informed the list later required pursuant to section 302.

Section 202 of the PACT Act required VA to establish a working group within the Department that includes personnel of the Veterans Health Administration (VHA) and the Veterans Benefits Administration (VBA) (38 U.S.C. §1172(b)). In accordance with this new section, VA formed an internal working group known as the Military Environmental Exposures Sub-Council (MEESC). Pursuant to 38 U.S.C. § 1172(c), the working group will conduct assessments of such toxic exposures, and, pursuant to 38 U.S.C. § 1172(d), the working group may recommend a formal evaluation if they determine that the research may change the current understanding of the relationship between the exposures and adverse health outcomes in humans.

The formal evaluation will result in recommendations concerning the establishment or modification of presumptions of service connection for certain toxic exposure locations and illnesses.

In August 2023, VA published its first annual report to Congress, which was titled Congressional Report by the Working Group on Recommendations Developed and Legislative Action Recommended.

Process

As a reporting entity to the MEESC and as a sub-group of VA-Department of Defense (DoD) Deployment Health Workgroup, a workgroup consisting of 20 VA and DoD experts was established. This workgroup reviewed the procedures outlined in 38 U.S.C. §§ 1172 and 1173, as well as potential substances, chemicals, airborne hazards, and other DoD- and VA-provided environmental hazards lists. This workgroup provided presentations from DoD sources and reviewed literature.

Based on the available exposure data, the workgroup determined that PM2.5 is the only definitive theater-wide exposure to chemical or chemical-composed agent. Establishing an end date is not appropriate at this time because the theater is still active and the time to symptom development has not been established. The workgroup provided an oral brief to the MEESC and VA-DoD Deployment Health Workgroup outlining no additions or removals from the presumption list for the period covered by this report.

Conclusion

VA supports continuation of PM2.5 as the proposed chemical agent on the list required pursuant to section 302 of the PACT Act. VA does not recommend establishing an end date for a covered Veteran to qualify for presumptions of exposure under this section. The start and end date of exposure cannot be definitively decided since there are still Service members in these areas and disease manifestations may occur decades after exposure.

Using the processes outlined in sections 1172 and 1173, VA's VHA/Health Outcomes and Military Exposures Program Office, VBA, and DoD will collaboratively continue to study and evaluate the substances, chemicals, and airborne hazards experienced by covered Veterans. Based on these efforts, VA may add additional substances, chemicals, and airborne hazards to the list in the future.

Department of Veterans Affairs
October 2024