

117TH CONGRESS
1ST SESSION

H. R. 2436

To amend title 38, United States Code, to concede exposure to airborne hazards and toxins from burn pits under certain circumstances, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 8, 2021

Ms. SLOTKIN (for herself and Mr. MELJER) introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 38, United States Code, to concede exposure to airborne hazards and toxins from burn pits under certain circumstances, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Veterans Burn Pits
5 Exposure Recognition Act of 2021”.

6 **SEC. 2. FINDINGS; SENSE OF CONGRESS.**

7 (a) FINDINGS.—Congress makes the following find-
8 ings:

1 (1) The health of some members of the Armed
2 Forces and veterans who served in certain locations,
3 often multiple times, may have been affected by
4 their service near burn pits and other sources of air-
5 borne hazards.

6 (2) Determining the location of burn pits, and
7 the scope of health effects associated to exposure, re-
8 mains the subject of much investigation, research,
9 and good faith efforts by the Department of Vet-
10 erans Affairs, the Department of Defense, other gov-
11 ernment agencies, and the National Academies of
12 Sciences, Engineering, and Medicine.

13 (3) The locations of burn pits used by the De-
14 partment of Defense and partnered armed forces,
15 and the possible health effects associated by their
16 use, may never be completely known, as—

17 (A) some location and air and soil quality
18 data is fragmentary; and

19 (B) the research involved with establishing
20 links between burn pit exposure and health con-
21 ditions by necessity is complex, years in length,
22 and in the end, in some cases, inconclusive.

23 (4) The September 2020 National Academies of
24 Sciences, Engineering and Medicine consensus study
25 report entitled “Respiratory Health Effects of Air-

1 borne Hazards Exposures in the Southwest Asia
2 Theater of Military Operations” concludes that the
3 available evidence does not allow a definitive deter-
4 mination to be made about any potential association
5 between airborne hazards in the theater and numer-
6 ous respiratory health outcomes. The report charac-
7 terizes existing research as inadequate, and advises
8 that additional research be done, including longitu-
9 dinal studies that by design take years.

10 (5) In the interim, though, some veterans have
11 already been adversely affected by their exposure to
12 burn pits, and their claims to certain benefits fur-
13 nished by the Department of Veterans Affairs can
14 be reviewed on a case-by-case basis.

15 (6) When filing a claim for certain benefits fur-
16 nished by the Department of Veterans Affairs, the
17 application requires that each veteran show evidence
18 of their exposure to burn pits, however if the evi-
19 dence of exposure to burn pits is not provided, the
20 claim is often denied.

21 (b) SENSE OF CONGRESS.—It is the sense of Con-
22 gress that—

23 (1) if it is determined that a veteran was de-
24 ployed to a covered location during a certain period,
25 the Secretary of Veterans Affairs should concede

1 that the member or veteran was exposed to certain
2 toxic substances, chemicals, and hazards;

3 (2) a concession of exposure as described in
4 paragraph (1) should not alone be sufficient to enti-
5 tle one to health care or disability compensation
6 under laws administered by the Secretary of Vet-
7 erans Affairs;

8 (3) the Department of Veterans Affairs, the
9 Department of Defense, and other relevant agencies
10 should make information regarding burn pit loca-
11 tions immediately available to the public, with appro-
12 priate caveats to its completeness and need for po-
13 tential future revision; and

14 (4) the earliest possible period for which the
15 Secretary of Veterans Affairs should make conces-
16 sions as described in paragraph (1) should begin on
17 August 2, 1990.

18 **SEC. 3. CONCESSION OF EXPOSURE TO AIRBORNE HAZ-**
19 **ARDS AND TOXIC SUBSTANCES FROM DE-**
20 **PARTMENT OF DEFENSE AND PARTNERED**
21 **ARMED FORCES BURN PITS.**

22 (a) CONCESSION REQUIRED.—

23 (1) IN GENERAL.—Subchapter II of chapter 11
24 of title 38, United States Code, is amended by add-
25 ing at the end the following new section:

1 **“§ 1119. Concession of exposure to airborne hazards**
2 **and toxic substances from burn pits**

3 “(a) IN GENERAL.—For purposes of section 1110
4 and chapter 17 of this title, any veteran who, during active
5 military, naval, or air service, was deployed in support of
6 a contingency operation while so serving and as part of
7 such deployment served in a covered location during a cor-
8 responding period set forth under subsection (b), shall be
9 considered to have been exposed to the toxic substances,
10 chemicals, and hazards listed in subsection (c), unless
11 there is affirmative evidence to establish that the veteran
12 was not exposed to any such substances, chemicals, or haz-
13 ards during that service.

14 “(b) COVERED LOCATIONS AND CORRESPONDING
15 PERIODS.—(1) The covered locations and corresponding
16 periods set forth under this subsection are as follows:

17 “(A) Iraq and the following periods:

18 “(i) The period beginning on August 2,
19 1990, and ending on February 28, 1991.

20 “(ii) The period beginning on March 19,
21 2003, and ending on such date as the Secretary
22 determines burn pits are no longer used in Iraq.

23 “(B) The Southwest Asia Theater of oper-
24 ations, other than Iraq, and the period beginning on
25 August 2, 1990, and ending on such date as the

1 Secretary determines burn pits are no longer used in
2 such location, including the following:

3 “(i) Kuwait.

4 “(ii) Saudi Arabia.

5 “(iii) Oman.

6 “(iv) Qatar.

7 “(C) Somalia and the period beginning on Au-
8 gust 2, 1990, and ending on such date as the Sec-
9 retary determines burn pits are no longer used in
10 Somalia.

11 “(D) Afghanistan and the period beginning on
12 September 11, 2001, and ending on such date as the
13 Secretary determines burn pits are no longer used in
14 Afghanistan.

15 “(E) Djibouti and the period beginning on Sep-
16 tember 11, 2001, and ending on such date as the
17 Secretary determines burn pits are no longer used in
18 Djibouti.

19 “(F) Syria and the period beginning on Sep-
20 tember 11, 2001, and ending on such date as the
21 Secretary determines burn pits are no longer used in
22 Syria.

23 “(G) Jordan and the period beginning on Sep-
24 tember 11, 2001, and ending on such date as the

1 Secretary determines burn pits are no longer used in
2 Jordan.

3 “(H) Egypt and the period beginning on Sep-
4 tember 11, 2001, and ending on such date as the
5 Secretary determines burn pits are no longer used in
6 Egypt.

7 “(I) Lebanon and the period beginning on Sep-
8 tember 11, 2001, and ending on such date as the
9 Secretary determines burn pits are no longer used in
10 Lebanon.

11 “(J) Yemen and the period beginning on Sep-
12 tember 11, 2001, and ending on such date as the
13 Secretary determines burn pits are no longer used in
14 Yemen.

15 “(K) Uzbekistan and the period beginning on
16 September 11, 2001, and ending on such date as the
17 Secretary determines burn pits are no longer used in
18 Uzbekistan.

19 “(L) The Philippines and the period beginning
20 on September 11, 2001, and ending on such date as
21 the Secretary determines burn pits are no longer
22 used in the Philippines.

23 “(M) Such other locations as are set forth by
24 the Airborne Hazards and Open Burn Pit Registry
25 established under section 201 of the Dignified Bur-

1 ial and Other Veterans’ Benefits Improvement Act
2 of 2012 (Public Law 112–260; 38 U.S.C. 527 note)
3 and corresponding periods set forth in such registry.

4 “(N) Such other locations and corresponding
5 periods as the Secretary, in collaboration with the
6 Secretary of Defense, may determine appropriate in
7 a report the Secretary of Veterans Affairs shall sub-
8 mit to Congress not later than two years after the
9 date of the enactment of the Veterans Burn Pits Ex-
10 posure Recognition Act of 2021 and not less fre-
11 quently than once every two years thereafter.

12 “(2) A location set forth under this subsection shall
13 not include any body of water around or any airspace
14 above such location.

15 “(c) TOXIC SUBSTANCES, CHEMICALS, AIRBORNE
16 HAZARDS.—(1) Subject to paragraph (2), the toxic sub-
17 stances, chemicals, and airborne hazards listed in this sub-
18 section are as follows:

19 “(A) Particulate matter, including the fol-
20 lowing:

21 “(i) PM-10.

22 “(ii) PM-2.5.

23 “(B) Polycyclic aromatic hydrocarbons (PAHs),
24 including the following:

25 “(i) Acenaphthene.

- 1 “(ii) Acenaphthylene.
- 2 “(iii) Anthracene.
- 3 “(iv) Benzo(a)anthracene.
- 4 “(v) Benzo(a)pyrene.
- 5 “(vi) Benzo(b)fluoroanthene.
- 6 “(vii) Benzo(g,h,i)perylene.
- 7 “(viii) Benzo(k)fluoroanthene.
- 8 “(ix) Chrysene.
- 9 “(x) Dibenz(a,h)anthracene.
- 10 “(xi) Fluoranthene.
- 11 “(xii) Fluorene.
- 12 “(xiii) Indeno(1,2,3-cd)pyrene.
- 13 “(xiv) Naphthalene.
- 14 “(xv) Phenanthrene.
- 15 “(xvi) Pyrene.
- 16 “(C) Volatile organic compounds (VOCs), in-
- 17 cluding the following:
- 18 “(i) Acetone.
- 19 “(ii) Acrolein.
- 20 “(iii) Benzene.
- 21 “(iv) Carbon Disulfide.
- 22 “(v) Chlorodifluoromethane.
- 23 “(vi) Chloromethane.
- 24 “(vii) Ethylbenzene.
- 25 “(viii) Hexane.

1 “(ix) Hexachlorobutadiene.

2 “(x) m/p-Xylene.

3 “(xi) Methylene Chloride.

4 “(xii) Pentane.

5 “(xiii) Propylene.

6 “(xiv) Styrene.

7 “(xv) Toluene.

8 “(D) Toxic organic halogenated dioxins and
9 furans (dioxins), including the following:

10 “(i) 1,2,3,4,6,7,8 HPCDD.

11 “(ii) 1,2,3,4,6,7,8 HPCDF.

12 “(iii) 1,2,3,4,7,8,9 HPCDF.

13 “(iv) 1,2,3,4,7,8 HXCDD.

14 “(v) 1,2,3,4,7,8 HXCDF.

15 “(vi) 1,2,3,6,7,8 HXCDD.

16 “(vii) 1,2,3,6,7,8 HXCDF.

17 “(viii) 1,2,3,7,8,9 HXCDD.

18 “(ix) 1,2,3,7,8,9 HXCDF.

19 “(x) 1,2,3,7,8 PECDD.

20 “(xi) 1,2,3,7,8 PECDF.

21 “(xii) 2,3,4,6,7,8 HXCDF.

22 “(xiii) 2,3,4,7,8 PECDF.

23 “(xiv) 2,3,7,8 TCDD.

24 “(xv) 2,3,7,8 TCDF.

25 “(xvi) octachlorodibenzodioxin.

1 “(xvii) octachlorodibenzofuran.

2 “(E) Such other toxic substances, chemicals,
3 and airborne hazards as the Secretary, in collabora-
4 tion with the Secretary of Defense, may add under
5 paragraph (2).

6 “(2) The Secretary may add to or remove from the
7 list under paragraph (1) as the Secretary determines ap-
8 propriate in a report the Secretary shall submit to Con-
9 gress not later than two years after the date of the enact-
10 ment of the Veterans Burn Pits Exposure Recognition Act
11 of 2021, and not less frequently than once every two years
12 thereafter.

13 “(d) MEDICAL EXAMINATIONS AND MEDICAL OPIN-
14 IONS.—(1) If a veteran described in subsection (a) sub-
15 mits to the Secretary a claim for compensation for a serv-
16 ice-connected disability with evidence of a disability and
17 service in a covered location and corresponding period set
18 forth under subsection (b) and such evidence is not suffi-
19 cient to establish a service connection for the disability,
20 the Secretary shall provide the veteran with a medical ex-
21 amination and the Secretary shall request a medical opin-
22 ion as to any causal link between the disability and a toxic
23 substance, chemical, or hazard set listed in subsection (c).

24 “(2) When providing the Secretary with a medical
25 opinion requested under paragraph (1), the provider shall

1 consider the total potential exposure through all applicable
2 military deployments, and the synergistic effect of all com-
3 bined toxic substances through inhalation, dermal expo-
4 sure, and ingestion.

5 “(e) DEFINITION OF BURN PIT.—In this section, the
6 term ‘burn pit’ means an area of land that—

7 “(1) is designated by the Secretary of Defense
8 to be used for disposing solid waste by burning in
9 the outdoor air; and

10 “(2) does not contain a commercially manufac-
11 tured incinerator or other equipment specifically de-
12 signed and manufactured for the burning of solid
13 waste.”.

14 (2) CLERICAL AMENDMENT.—The table of sec-
15 tions at the beginning of chapter 11 of such title is
16 amended by inserting after the item relating to sec-
17 tion 1118 the following new item:

“1119. Concession of exposure to airborne hazards and toxic substances from
burn pits.”.

18 (b) REPORTS.—

19 (1) REPORTS REQUIRED.—The Secretary shall
20 submit to the Committee on Veterans’ Affairs of the
21 Senate and Committee on Veterans’ Affairs of the
22 House of Representatives reports as follows:

23 (A) Not later than 60 days after the date
24 of the enactment of this Act, a report covering

1 the one-year period preceding the date of the
2 enactment of this Act.

3 (B) Not later than 425 days after the date
4 of the enactment of this Act, a report covering
5 the one-year period beginning on the date of the
6 enactment of this Act.

7 (C) Not later than 790 days after the date
8 of the enactment of this Act, a report covering
9 the one-year period beginning on the date that
10 is one year after the date of the enactment of
11 this Act.

12 (2) CONTENTS.—Each report submitted under
13 paragraph (1) shall include, for the period covered
14 by the report and disaggregated by each of the cat-
15 egories set forth under paragraph (3), the following:

16 (A) Total number of claims completed for
17 compensation under chapter 11 of title 38,
18 United States Code.

19 (B) Total number of such completed
20 claims for which the Secretary provided medical
21 examinations.

22 (C) The current status of such completed
23 claims, disaggregated by the following:

24 (i) Total claims granted.

1 (ii) Total claims denied for which the
2 claimant took no further action.

3 (iii) Total claims denied for which the
4 claimant filed a supplemental claim.

5 (iv) Total claims denied for which the
6 claimant requested a higher level review.

7 (v) Total claims denied for which the
8 claimant filed an appeal to the Board of
9 Veterans' Appeals.

10 (D) Total number of claims for compensa-
11 tion under chapter 11 of such title pending a
12 decision.

13 (3) CATEGORIES.—The categories set forth
14 under this paragraph are claims for compensation
15 under chapter 11 of title 38, United States Code, in-
16 volving exposure to a toxic substance, chemical, or
17 hazard listed in subsection (c) of section 1119 of
18 such title, as added by subsection (a)(1), during ac-
19 tive military, naval, or air service in support of a
20 contingency operation in a covered location during a
21 corresponding period set forth under subsection (b)
22 of such section.

23 (4) PUBLIC ACCESS TO REPORTS.—The Sec-
24 retary shall make each report required by paragraph
25 (1) available to the public, including by publishing

1 the reports on a publicly accessible page of the
2 website of the Department of Veterans Affairs, along
3 with such additional information or comments as the
4 Secretary considers appropriate to provide context
5 for the report.

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