



Statement of the  
Fleet Reserve Association

on

Toxic Exposure Legislation

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Veterans' Affairs Committee

By

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The Fleet Reserve Association (FRA) was started in 1924 and is a congressionally chartered, non-profit organization that represents the interests of the Sea Service community before the U.S. Congress. Although the association was originally named for the Navy's Fleet Reserve program, membership in FRA is open to all current and former Sailors, Marines, and Coast Guard enlisted personnel. The association strongly believes that we must take care of those warriors who risk their lives to protect our way of life. These brave men and women put their lives on the line with the expectation of our country holding their part of the contract of taking care of them if they fall in harm's way.

The history of toxic exposure in the US military is a costly lesson that must not be forgotten. During the early and mid-1970s, a growing number of veterans began to question the possible correlation between their conditions or diseases and their exposure to herbicides, specifically Agent Orange, in Vietnam. The Agent Orange Act passed after almost two decades of the tragic loss of lives due to cancer and other terminal illnesses. Decades later veterans of the Vietnam war era are still fighting claims associated with the exposure to Agent Orange.

FRA is thankful for the passage of the Agent Orange Blue Water Act (2019) and the subsequent passage of the new presumptive conditions in the FY 2021 National Defense Authorization Act. However, the nation is closing in on five decades since the end of the Vietnam war and veterans are still dealing with claim issues arising from the exposure to Agent Orange even with a list of presumptive conditions. This is the reason FRA is a member of the Toxic Exposures in the American Military (TEAM) Coalition because we believe the issue of toxic exposure deserves a framework that would help past, present, and future veterans. Additionally, it will help avoid the debacle the Vietnam war veterans went through with their claims of exposure to Agent Orange. The association wants to ensure that no veteran who had exposure to burn pits or other environmental toxins goes without access to the Department of Veterans Affairs (VA) health care benefits.

In 1982, the Marine Corps discovered specific volatile organic compounds in the drinking water provided by two of the eight water treatment plants on Camp Lejeune, NC. The significant source of water contamination was a nearby dry-cleaning business that for years dumped into drains wastewater with chemicals used in dry cleaning. Chemicals found in the wastewater included tetrachloroethylene (PCE), which has multiple industrial uses, and another solvent and suspected carcinogen were also used widely by Marines on base to clean machinery. Over the years servicemember and their families started developing all sorts of terminal illnesses to which they couldn't attribute a source. Master Sergeant. Jerry Ensminger, USMC (Ret.) lost his six-year-old daughter Janey to leukemia in 1985, Janey was their only child conceived and born in Camp Lejeune. Jerry Ensminger did not learn of the contamination until more than a decade later, when he heard reports of a new federal study that found contamination in the Camp Lejeune water had been, by today's standards, quite toxic. After almost three decades the Janey Act was signed into law in 2012 by then-President Barack Obama. The bill provided presumption for service connection for any illness associated with contaminants in the water supply at Camp Lejeune and provided family members who resided at such location during such period or were in utero during such period while the mother resided at such location, eligible for

hospital care, medical services, and nursing home care through the VA for any condition or disability associated with exposure to such contaminants.

Currently, VA's decision on toxic exposure is conflict to conflict basis. The history of exposure has been documented both domestic and abroad, toxic exposure is toxic exposure and should not be treated differently based on the conflict nor location.

In 1970, Congress passed the Clean Air Act (CAA) to protect the population from environmental airborne hazards in open-air waste combustion; over the years the Environmental Protection Agency (EPA) tightened the rules and regulations under CAA based on studies on effects of some of the hazardous air pollutants. Most US cities and even some states have banned the practice of open waste combustion due to the growing body of research about the dangers of burn barrels, namely the dioxins and other pollutants emitted. The research of the adverse consequences of open waste combustion was available at the commencement of the operations in Southeast Asia. However, the Department of Defense (DoD) established several burn pits with an onsite working party on most bases as they were the easiest way to get rid of waste, some of these burn pits proximity was as close to the living quarters of service members. Deployment to the region exposed service members to airborne hazards including oil-well fire smoke, emissions from open burn pits, dust suspended in the air, exhaust from military vehicles, and local industrial emissions. Extreme temperatures, stress, and noise encountered by service members may have increased their vulnerability to these exposures. Toxins in burn pit smoke may affect the skin, eyes, respiratory and cardiovascular systems, gastrointestinal tract, and internal organs. The VA has received 12,582 claims related to burn pit exposure but only 2,828 have been granted.

As noted above many claims have been rejected because of the lack of evidence of burn pit exposure. Each VA claim related to burn pit exposure must include:

1. Medical evidence of a current disability;
2. Evidence of burn pit exposure;
3. Evidence of a link between the claimed disease/injury and exposure to burn pits.

The lack of consistency in claim decisions among the regional offices has cast doubts on the claims adjudication process and often leads to delayed and prolonged actions which are detrimental to veterans seeking their entitled benefits. Establishing presumptive conditions for illness related to burn pits and other toxins will ensure fairness and consistency in the claims adjudication process; unfortunately, history shows this is a lengthy and difficult path often achieved through litigation and legislation. For example, the VA denied a pancreatic cancer claim filed by FRA relating to Agent Orange exposure; this comes as a surprise since this claim meets all evidentiary standards of previously granted claims under the same condition.

There are six health registries in existence for veterans who have had exposure to certain environmental hazards, the registry allows the VA to track and under health problems among veterans and issue alerts. However, veterans will still have to go through the VA claims process to verify exposures according to military records.

FRA believes that an established framework for toxic exposure is essential to providing a fair and consistent process of establishing presumptions and claims adjudication process. The

association supports a list of proposed legislation that would create a robust claims adjudication process.

The FRA supports the following legislation:

**"The Toxic Exposure in the American Military Act" (TEAM Act - S.927-Sen. Thom Tillis/H.R.2127-Rep. Mike Bost)**, which would expand access to preventative and diagnostic services for veterans exposed to toxins and establishes an independent scientific commission tasked with researching the health effects of such toxic exposure and reporting its findings to the VA and Congress.

**"The Veterans Burn Pits Exposure Recognition Act" (S.437-Sen. Dan Sullivan/H.R.2436-Rep. Elissa Slotkin)** which would address the barrier currently preventing many veterans from getting U.S. Department of Veterans Affairs (VA) health care and benefits for illnesses and diseases related to exposure to burn pits. The bill would recognize and concede their exposure during deployed service.

**"The Conceding Our Veterans' Exposure Now and Necessitating Training (COVENANT) Act" (H.R.2368-Rep. Elaine Luria)** which would establish a presumption of service connection for illnesses associated with exposure to certain airborne hazards. It is the first bill addressing toxic exposure to include both a comprehensive list of overseas locations that would qualify a veteran for earned benefits, as well as a comprehensive list of presumptive illnesses contracted as a result of airborne exposure.

**"The Presumptive Benefits for War Fighters Exposed to Burn Pits and Other Toxins Act" (S.952-Sen. Kirsten Gillibrand/HR.2372-Rep Raul Ruiz)**. The bill would streamline the process for obtaining VA benefits for burn pit and other toxic exposures. Approximately 3.5 million veterans have been exposed to burn pits that spewed toxic fumes and carcinogens into the air.

The association believes passing these key bills among others will secure a pathway that would help past, present, and future veterans. These bills will allow the VA to process their claims effectively and accurately while offering fair and consistent outcomes. Above all, it will provide immediate treatment of illness that would save several lives.

FRA wants to ensure adequate funding for the DoD and the VA health care resource sharing in delivering seamless, cost-effective, quality services to personnel wounded in combat and other veterans and their families. Some members of Congress have expressed concern about the cost and length of time to fully implement. The cost and the long time for implementation notwithstanding, FRA believes there is a tremendous opportunity with the two departments using the same EHR. Congress must provide proper oversight and demand timely completion of the VA's Electronic Health Record Modernization project which will be essential to the claims adjudication process. FRA is looking forward to working with the committee and bill sponsors to pass a comprehensive bill on toxic exposure this year.