

116TH CONGRESS
1ST SESSION

S. 2950

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 SENATE OF THE UNITED STATES

NOVEMBER 21, 2019

Mr. SULLIVAN (for himself and Mr. MANCHIN) introduced the following bill;
which was read twice and referred to the Committee on Veterans' Affairs

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 2019”.

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.

5 (2) Determining the location of burn pits, and
6 the scope of health effects associated to exposure, re-
7 mains the subject of much investigation and re-
8 search by the Department of Veterans Affairs, the
9 Department of Defense, other government agencies,
10 and the National Academies of Sciences, Engineer-
11 ing, and Medicine.

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

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

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

22 (4) In the interim, though, some veterans have
23 already been adversely affected by their exposure to
24 burn pits, and their claims to certain benefits fur-

1 nished by the Department of Veterans Affairs can
2 be reviewed on a case-by-case basis.

3 (5) When filing a claim for certain benefits fur-
4 nished by the Department of Veterans Affairs, the
5 application requires that each veteran show evidence
6 of their exposure to burn pits, however if the evi-
7 dence of exposure to burn pits is not provided, the
8 claim is often denied.

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

11 (1) if it is determined that a veteran was de-
12 ployed to a covered location during a certain period,
13 the Secretary of Veterans Affairs should concede
14 that the member or veteran was exposed to certain
15 toxins, chemicals, and hazards; and

16 (2) a concession of exposure as described in
17 paragraph (1) should not alone be sufficient to enti-
18 tle one to health care or disability compensation
19 under laws administered by the Secretary of Vet-
20 erans Affairs.

1 **SEC. 3. CONCESSION OF EXPOSURE TO AIRBORNE HAZ-**
 2 **ARDS AND TOXINS FROM DEPARTMENT OF**
 3 **DEFENSE AND PARTNERED ARMED FORCES**
 4 **BURN PITS.**

5 (a) IN GENERAL.—Subchapter II of chapter 11 of
 6 title 38, United States Code, is amended by adding at the
 7 end the following new section:

8 **“§ 1119. Concession of exposure to airborne hazards**
 9 **and toxins from burn pits**

10 “(a) IN GENERAL.—For purposes of section 1110
 11 and chapter 17 of this title, any veteran who, during active
 12 military, naval, or air service, was deployed in support of
 13 a contingency operation while so serving and as part of
 14 such deployment served in a covered location during a cor-
 15 responding period set forth under subsection (b), shall be
 16 considered to have been exposed to the toxins, chemicals,
 17 and hazards listed in subsection (c).

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

21 “(A) Iraq and the following periods:

22 “(i) The period beginning on August 2,
 23 1990, and ending on February 28, 1991.

24 “(ii) The period beginning on March 19,
 25 2003, and ending on such date as the Secretary
 26 determines burn pits are no longer used in Iraq.

1 “(B) The Southwest Asia Theater of oper-
2 ations, other than Iraq, and the period beginning on
3 August 2, 1990, and ending on such date as the
4 Secretary determines burn pits are no longer used in
5 such location, including the following:

6 “(i) Kuwait.

7 “(ii) Saudi Arabia.

8 “(iii) Bahrain.

9 “(iv) Oman.

10 “(v) Qatar.

11 “(vi) United Arab Emirates.

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

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

20 “(E) Such other locations as are set forth by
21 the Airborne Hazards and Open Burn Pit Registry
22 established under section 201 of the Dignified Bur-
23 ial and Other Veterans’ Benefits Improvement Act
24 of 2012 (Public Law 112–260; 38 U.S.C. 527 note)
25 and corresponding periods set forth in such registry.

1 “(F) Such other locations and corresponding
2 periods as the Secretary, in collaboration with the
3 Secretary of Defense, may determine appropriate in
4 a report the Secretary of Veterans Affairs shall sub-
5 mit to Congress not later than two years after the
6 date of the enactment of the Veterans Burn Pits Ex-
7 posure Recognition Act of 2019 and not less fre-
8 quently than once every two years thereafter.

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

12 “(c) TOXINS, CHEMICALS, AIRBORNE HAZARDS.—
13 (1) Subject to paragraph (2), the toxins, chemicals, and
14 airborne hazards listed in this subsection are as follows:

15 “(A) Particulate matter, including the fol-
16 lowing:

17 “(i) PM-10.

18 “(ii) PM-2.5.

19 “(B) Polycyclic aromatic hydrocarbons (PAHs),
20 including the following:

21 “(i) Acenaphthene.

22 “(ii) Acenaphthylene.

23 “(iii) Anthracene.

24 “(iv) Benzo(a)anthracene.

25 “(v) Benzo(a)pyrene.

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

1 “(xiii) Propylene.

2 “(xiv) Styrene.

3 “(xv) Toluene.

4 “(D) Toxic organic halogenated dioxins and
5 furans (dioxins), including the following:

6 “(i) 1,2,3,4,6,7,8 HPCDD.

7 “(ii) 1,2,3,4,6,7,8 HPCDF.

8 “(iii) 1,2,3,4,7,8,9 HPCDF.

9 “(iv) 1,2,3,4,7,8 HXCDD.

10 “(v) 1,2,3,4,7,8 HXCDF.

11 “(vi) 1,2,3,6,7,8 HXCDD.

12 “(vii) 1,2,3,6,7,8 HXCDF.

13 “(viii) 1,2,3,7,8,9 HXCDD.

14 “(ix) 1,2,3,7,8,9 HXCDF.

15 “(x) 1,2,3,7,8 PECDD.

16 “(xi) 1,2,3,7,8 PECDF.

17 “(xii) 2,3,4,6,7,8 HXCDF.

18 “(xiii) 2,3,4,7,8 PECDF.

19 “(xiv) 2,3,7,8 TCDD.

20 “(xv) 2,3,7,8 TCDF.

21 “(xvi) octachlorodibenzodioxin.

22 “(xvii) octachlorodibenzofuran.

23 “(E) Such other toxins, chemicals, and airborne
24 hazards as the Secretary, in collaboration with the
25 Secretary of Defense, may add under paragraph (2).

1 “(2) The Secretary may add to or remove from the
2 list under paragraph (1) as the Secretary determines ap-
3 propriate in a report the Secretary shall submit to Con-
4 gress not later than two years after the date of the enact-
5 ment of the Veterans Burn Pits Exposure Recognition Act
6 of 2019, and not less frequently than once every two years
7 thereafter.

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

19 “(2) When providing the Secretary with a medical
20 opinion requested under paragraph (1), the provider shall
21 consider the total potential exposure through all applicable
22 military deployments, and the synergistic effect of all com-
23 bined toxins through inhalation, dermal exposure, and in-
24 gestion.

1 “(e) DEFINITION OF BURN PIT.—In this section, the
2 term ‘burn pit’ means an area of land that is used for
3 disposal of solid waste by burning in the outdoor air.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 at the beginning of chapter 11 of such title is amended
6 by inserting after the item relating to section 1118 the
7 following new item:

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

