

Calendar No. _____

116TH CONGRESS
2D SESSION**S. 2950**

[Report No. 116-_____]]

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

_____ (legislative day, _____), _____

Reported by Mr. MORAN, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

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”.

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

2 (a) FINDINGS.—Congress makes the following find-
3 ings:

4 (1) The health of some members of the Armed
5 Forces and veterans who served in certain locations,
6 often multiple times, may have been affected by
7 their service near burn pits.

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

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

19 (A) some location and air and soil quality
20 data is fragmentary; and

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

25 (4) In the interim, though, some veterans have
26 already been adversely affected by their exposure to

1 burn pits, and their claims to certain benefits fur-
2 nished by the Department of Veterans Affairs can
3 be reviewed on a case-by-case basis.

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

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

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

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

8 **SECTION 1. SHORT TITLE.**

9 *This Act may be cited as the “Veterans Burn Pits Ex-*
10 *posure Recognition Act of 2020”.*

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

12 **(a) FINDINGS.**—*Congress makes the following findings:*

13 **(1)** *The health of some members of the Armed*
14 *Forces and veterans who served in certain locations,*
15 *often multiple times, may have been affected by their*
16 *service near burn pits.*

17 **(2)** *Determining the location of burn pits, and*
18 *the scope of health effects associated to exposure, re-*
19 *mains the subject of much investigation and research*
20 *by the Department of Veterans Affairs, the Depart-*
21 *ment of Defense, other government agencies, and the*
22 *National Academies of Sciences, Engineering, and*
23 *Medicine.*

24 **(3)** *The locations of burn pits used by the De-*
25 *partment of Defense and partnered armed forces, and*

1 *the possible health effects associated by their use, may*
2 *never be completely known, as—*

3 *(A) some location and air and soil quality*
4 *data is fragmentary; and*

5 *(B) the research involved with establishing*
6 *links between burn pit exposure and health con-*
7 *ditions by necessity is complex, years in length,*
8 *and in the end, in some cases, inconclusive.*

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

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

20 *(b) SENSE OF CONGRESS.—It is the sense of Congress*
21 *that—*

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

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

3 *(2) a concession of exposure as described in*
4 *paragraph (1) should not alone be sufficient to entitle*
5 *one to health care or disability compensation under*
6 *laws administered by the Secretary of Veterans Af-*
7 *fairs;*

8 *(3) the Department of Veterans Affairs, the De-*
9 *partment of Defense, and other relevant agencies*
10 *should make information regarding burn pit locations*
11 *immediately available to the public, with appropriate*
12 *caveats to its completeness and need for potential fu-*
13 *ture revision; and*

14 *(4) the earliest possible period for which the Sec-*
15 *retary of Veterans Affairs should make concessions as*
16 *described in paragraph (1) should begin on August 2,*
17 *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 of*
24 *title 38, United States Code, is amended by adding*
25 *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 and
4 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).

11 “(b) *COVERED LOCATIONS AND CORRESPONDING PE-*
12 *RIODS.*—(1) *The covered locations and corresponding peri-*
13 *ods set forth under this subsection are as follows:*

14 “(A) *Iraq and the following periods:*

15 “(i) *The period beginning on August 2,*
16 *1990, and ending on February 28, 1991.*

17 “(ii) *The period beginning on March 19,*
18 *2003, and ending on such date as the Secretary*
19 *determines burn pits are no longer used in Iraq.*

20 “(B) *The Southwest Asia Theater of operations,*
21 *other than Iraq, and the period beginning on August*
22 *2, 1990, and ending on such date as the Secretary de-*
23 *termines burn pits are no longer used in such loca-*
24 *tion, including the following:*

25 “(i) *Kuwait.*

26 “(ii) *Saudi Arabia.*

1 “(iii) Oman.

2 “(iv) Qatar.

3 “(C) Afghanistan and the period beginning on
4 September 11, 2001, and ending on such date as the
5 Secretary determines burn pits are no longer used in
6 Afghanistan.

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

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

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

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

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

1 *retary determines burn pits are no longer used in*
2 *Lebanon.*

3 *“(I) Yemen and the period beginning on Sep-*
4 *tember 11, 2001, and ending on such date as the Sec-*
5 *retary determines burn pits are no longer used in*
6 *Yemen.*

7 *“(J) Such other locations as are set forth by the*
8 *Airborne Hazards and Open Burn Pit Registry estab-*
9 *lished under section 201 of the Dignified Burial and*
10 *Other Veterans’ Benefits Improvement Act of 2012*
11 *(Public Law 112–260; 38 U.S.C. 527 note) and cor-*
12 *responding periods set forth in such registry.*

13 *“(K) Such other locations and corresponding pe-*
14 *riods as the Secretary, in collaboration with the Sec-*
15 *retary of Defense, may determine appropriate in a re-*
16 *port the Secretary of Veterans Affairs shall submit to*
17 *Congress not later than two years after the date of the*
18 *enactment of the Veterans Burn Pits Exposure Rec-*
19 *ognition Act of 2020 and not less frequently than once*
20 *every two years thereafter.*

21 *“(2) A location set forth under this subsection shall*
22 *not include any body of water around or any airspace above*
23 *such location.*

24 *“(c) TOXIC SUBSTANCES, CHEMICALS, AIRBORNE*
25 *HAZARDS.—(1) Subject to paragraph (2), the toxic sub-*

1 *stances, chemicals, and airborne hazards listed in this sub-*
2 *section are as follows:*

3 “(A) *Particulate matter, including the following:*

4 “(i) *PM-10.*

5 “(ii) *PM-2.5.*

6 “(B) *Polycyclic aromatic hydrocarbons (PAHs),*
7 *including the following:*

8 “(i) *Acenaphthene.*

9 “(ii) *Acenaphthylene.*

10 “(iii) *Anthracene.*

11 “(iv) *Benzo(a)anthracene.*

12 “(v) *Benzo(a)pyrene.*

13 “(vi) *Benzo(b)fluoroanthene.*

14 “(vii) *Benzo(g,h,i)perylene.*

15 “(viii) *Benzo(k)fluoroanthene.*

16 “(ix) *Chrysene.*

17 “(x) *Dibenz(a,h)anthracene.*

18 “(xi) *Fluoranthene.*

19 “(xii) *Fluorene.*

20 “(xiii) *Indeno(1,2,3-cd)pyrene.*

21 “(xiv) *Naphthalene.*

22 “(xv) *Phenanthrene.*

23 “(xvi) *Pyrene.*

24 “(C) *Volatile organic compounds (VOCs), includ-*
25 *ing the following:*

- 1 “(i) Acetone.
- 2 “(ii) Acrolein.
- 3 “(iii) Benzene.
- 4 “(iv) Carbon Disulfide.
- 5 “(v) Chlorodifluoromethane.
- 6 “(vi) Chloromethane.
- 7 “(vii) Ethylbenzene.
- 8 “(viii) Hexane.
- 9 “(ix) Hexachlorobutadiene.
- 10 “(x) m/p-Xylene.
- 11 “(xi) Methylene Chloride.
- 12 “(xii) Pentane.
- 13 “(xiii) Propylene.
- 14 “(xiv) Styrene.
- 15 “(xv) Toluene.
- 16 “(D) Toxic organic halogenated dioxins and
- 17 furans (dioxins), including the following:
- 18 “(i) 1,2,3,4,6,7,8 HPCDD.
- 19 “(ii) 1,2,3,4,6,7,8 HPCDF.
- 20 “(iii) 1,2,3,4,7,8,9 HPCDF.
- 21 “(iv) 1,2,3,4,7,8 HXCDD.
- 22 “(v) 1,2,3,4,7,8 HXCDF.
- 23 “(vi) 1,2,3,6,7,8 HXCDD.
- 24 “(vii) 1,2,3,6,7,8 HXCDF.
- 25 “(viii) 1,2,3,7,8,9 HXCDD.

1 “(ix) 1,2,3,7,8,9 HXCDF.

2 “(x) 1,2,3,7,8 PECDD.

3 “(xi) 1,2,3,7,8 PECDF.

4 “(xii) 2,3,4,6,7,8 HXCDF.

5 “(xiii) 2,3,4,7,8 PECDF.

6 “(xiv) 2,3,7,8 TCDD.

7 “(xv) 2,3,7,8 TCDF.

8 “(xvi) octachlorodibenzodioxin.

9 “(xvii) octachlorodibenzofuran.

10 “(E) Such other toxic substances, chemicals, and
11 airborne hazards as the Secretary, in collaboration
12 with the Secretary of Defense, may add under para-
13 graph (2).

14 “(2) The Secretary may add to or remove from the list
15 under paragraph (1) as the Secretary determines appro-
16 priate in a report the Secretary shall submit to Congress
17 not later than two years after the date of the enactment
18 of the Veterans Burn Pits Exposure Recognition Act of
19 2020, and not less frequently than once every two years
20 thereafter.

21 “(d) *MEDICAL EXAMINATIONS AND MEDICAL OPIN-*
22 *IONS.—(1) If a veteran described in subsection (a) submits*
23 *to the Secretary a claim for compensation for a service-con-*
24 *nected disability with evidence of a disability and service*
25 *in a covered location and corresponding period set forth*

1 *under subsection (b) and such evidence is not sufficient to*
2 *establish a service connection for the disability, the Sec-*
3 *retary shall provide the veteran with a medical examina-*
4 *tion and the Secretary shall request a medical opinion as*
5 *to any causal link between the disability and a toxic sub-*
6 *stance, chemical, or hazard set listed in subsection (c).*

7 “(2) *When providing the Secretary with a medical*
8 *opinion requested under paragraph (1), the provider shall*
9 *consider the total potential exposure through all applicable*
10 *military deployments, and the synergistic effect of all com-*
11 *bined toxic substances through inhalation, dermal exposure,*
12 *and ingestion.*

13 “(e) *DEFINITION OF BURN PIT.—In this section, the*
14 *term ‘burn pit’ means an area of land that is used for dis-*
15 *posal of solid waste by burning in the outdoor air.”.*

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

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

20 (b) *REPORTS.—*

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

1 (ii) *Total claims granted.*

2 (iii) *Total claims denied for which the*
3 *claimant took no further action.*

4 (iv) *Total claims denied for which the*
5 *claimant filed a supplemental claim.*

6 (v) *Total claims denied for which the*
7 *claimant requested a higher level review.*

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

11 (3) *CATEGORIES.—The categories set forth under*
12 *this paragraph are as follows:*

13 (A) *Claims for compensation under chapters*
14 *11 and 13 of title 38, United States Code.*

15 (B) *Claims involving exposure to a toxic*
16 *substance, chemical, or hazard listed in sub-*
17 *section (c) of section 1119 of title 38, United*
18 *States Code, as added by subsection (a)(1), dur-*
19 *ing active military, naval, or air service in sup-*
20 *port of a contingency operation in a covered lo-*
21 *cation during a corresponding period set forth*
22 *under subsection (b) 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 website*
- 2 *of the Department of Veterans Affairs.*