

# Ending the Wait for Toxic-Exposed Veterans

MOAA will advocate for legislation cutting the time between a veteran’s exposure to toxic substances and their eligibility for VA health care and services – a gap of more than three decades, on average. A strong legal framework is a critical first step in creating “presumptive conditions”—illnesses and injuries presumed connected to a toxic-exposure incident—and streamlining this path to life-changing, service-earned benefits.

## BACKGROUND

The Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics (PACT) Act, which became law in 2022, represents the most significant expansion of benefits and services for toxic-exposed veterans in more than 30 years. It expands VA health care and benefits for veterans exposed to burn pits, Agent Orange, and other toxic substances. While the act brings new benefits and health care eligibility to millions of veterans, and significantly improves how the VA treats toxic exposures, additional actions are required.

## THE LONG WAIT FOR PRESUMPTIVES

The PACT Act does not cover every toxic-exposed veteran. These veterans have extremely long waits—more than 34 years on average, according to a recent report from MOAA and Disabled American Veterans (DAV)—from initial exposure to when VA presumptives allow them to receive presumptive service connection for related disabilities.

Examples of toxic-exposure incidents, and the care-related delays:

- **Agent Orange:** Veterans were required to wait nearly 20 years following the last exposure and 30 years after the first use of Agent Orange until Congress created a presumptive.
- **Airborne Hazards and Burn Pits:** Veterans were required to wait nearly 20 years after the wars in Iraq and Afghanistan, and 30 years after Persian Gulf War. The PACT Act created a new presumptive for burn pits and airborne hazards that added more than 20 diseases and illnesses.
- **Atomic Radiation:** Veterans were required to wait nearly 40 years after their exposure. Congress enacted legislation to ensure veterans, and their survivors,

received compensation for disabilities or deaths related to exposure to ionizing radiation during atmospheric nuclear testing or the occupation of Hiroshima and Nagasaki.

## RECOMMENDATION: BOLSTER LEGAL FRAMEWORKS FOR THE PRESUMPTIVE-MAKING PROCESS

MOAA recommends Congress enact legislation to create a new legal framework built around the three steps in creating a presumptive: acknowledgment, concession, and presumption of service connection.

Each step the proposed framework should come with specific timelines, thresholds, decisions, and triggers designed to move the process toward a final decision.

**Step 1: Acknowledgement of Possible Toxic Exposure Risk.** Acknowledgment only confirms an incident occurred; the VA would be required to begin collecting and analyzing all relevant data and information about that incident to help determine whether a confirmed exposure affected a group of servicemembers. Within 90 days of an acknowledgment, the VA must decide whether to establish a concession of exposure, defer this decision for up to 90 days to collect and analyze additional data, or close the decision process without a concession of exposure.

## A HISTORY OF TOXIC EXPOSURE

**30** Toxic exposures VA has acknowledged since World War I.

**16** Toxic exposures resulting in a presumptive condition—illness or injury presumed connected to the exposure, which would be covered by the VA.

**31.4** Average time, in years, between the first year of a known toxic exposure to that exposure’s “acknowledgement” by the VA.

**2.4** Average time, in years, between the VA’s acknowledgment and the establishment of a presumptive condition (in the 16 cases with presumptives). Overall, it takes about 34.1 years after the first incidence of military toxic exposure to the establishment of a presumptive.

SOURCE: ENDING THE WAIT FOR TOXIC-EXPOSED VETERANS, WWW.ENDINGTHEWAIT.ORG.

**Congress:** Pass legislation to shorten how long millions of veterans must wait before receiving service-earned care and benefits from the VA for conditions connected to toxic exposure.

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**Step 2: Concession of Exposure to Toxic Substance.** Within 90 days of a formal acknowledgment of a toxic exposure, the VA's next step — if justified — would be to establish a concession of exposure for the event. This would legally concede exposure to a toxic substance or substances for a cohort of affected veterans, typically based on the time and location of their service.

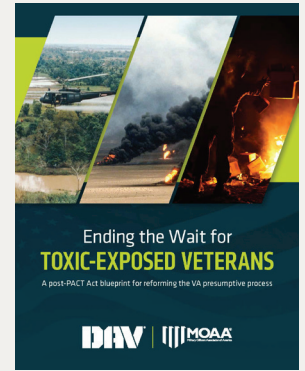
**Step 3: Presumption of Service Connection Between Exposure and Disease(s).** Following a concession of exposure, the VA must adopt a formal research plan to determine whether the toxic exposures covered under that concession can be linked to diseases and health conditions. Following the establishment of a presumption, the VA must create an outreach plan to all veterans, as well as their families or survivors, who are covered under the concession of exposure and should retroactively review any claims related to the covered conditions.

**Other Recommendations.** Later in the process, the VA must:

- Expand scientific understanding of toxic exposures through research, monitoring, surveillance, and oversight.
- Eliminate legal barriers to receiving toxic-exposure benefits for veterans, as well as their families and survivors.
- Establish a new classification system for toxic exposures and presumptives, as outlined in the MOAA/DAV *Ending the Wait* report.

**READ THE REPORT**

MOAA and Disabled American Veterans (DAV) co-authored *Ending the Wait for Toxic-Exposed Veterans*, a 2024 report offering a blueprint for reforming the VA process used to identify and create presumptive conditions related to toxic exposure. The report shares stories of generations of toxic-exposed veterans who have dealt with delays lasting decades, dives into more than a century of toxic exposure incidents, and outlines a plan to cut wait times, establish meaningful deadlines, and create a science-backed review process designed to get veterans and families the care and benefits they've earned.



**COMPARISON OF SELECTED TOXIC EXPOSURE TIMELINES**

The graph below illustrates the tremendous wait times that toxic-exposed veterans have historically endured until their exposures were acknowledged. In many instances, veterans waited decades for an acknowledgment.

