



**DEPARTMENT OF VETERANS AFFAIRS**  
**Veterans Benefits Administration**  
**Washington, DC 20420**

June 12, 2024

VBA Letter 20-24-06

Director (00)

**All Veterans Benefits Administration (VBA) Services, Staff Offices, and Regional Offices (RO)**

**Subject:** Updated Guidance on Processing Claims Involving Public Law 117-168, Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics Act of 2022, or the Honoring our PACT Act of 2022 (hereinafter referred to as "PACT Act")

**1. Purpose**

Claims processors in ROs must apply this updated guidance when processing disability compensation claims, higher-level reviews, Appeals Modernization Act (AMA) remands and legacy appeals for Veterans and survivors impacted by the PACT Act.

**1.1 What Has Changed?**

The following table highlights the changes effectuated by this updated Policy Letter, along with the page numbers where the changes are made:

<b>Change</b>	<b>Page Numbers</b>
Clarify that name-only entries and entries based on contractor or civilian service periods in an exposure tracking record system do not constitute evidence of participation in a toxic exposure risk activity (TERA). Add two new exceptions under 38 U.S.C. § 1168(b) where a medical examination and opinion is not warranted for circumstances where the only participation in a TERA that is established (1) is based on an entry in an exposure tracking record system that does not corroborate or substantiate potential exposure to toxic substances, chemicals, or airborne hazards in service, or (2) is based on self-reporting that cannot be substantiated.	11, 13-14

## Director (00)

Add breast cancer as a disease that the Secretary has determined has no indication of an association with herbicide exposure and include it on the list of conditions not warranting a medical examination and opinion under 38 U.S.C. § 1168 when the only participation in a TERA is related to herbicide exposure	13
Remove renal cancer (kidney and renal pelvis) from the list of conditions under 38 U.S.C. § 1168(b) for which a medical examination and opinion is not warranted when the only participation in a TERA is related to herbicide exposure	13
Indicate that the expanded list of locations eligible for a presumption of radiation exposure under sections 401 and 402 of the PACT Act have been added to VA regulations	15
Specify that for entitlement to spina bifida benefits under 38 U.S.C. § 1822, covered service in Thailand means service in Thailand at any United States or Royal Thai base during the period beginning on January 9, 1962, and ending on May 7, 1975, without regard to where on the base the Veteran was located or what military job specialty the Veteran performed	16-17
Add male breast cancer, urethral cancer, and paraurethral cancer as reproductive cancers under section 406 of the PACT Act	19, 28
Remove references to “Lymphomatic cancer of any type” due to recent law change under the National Defense Authorization Act (NDAA) for Fiscal Year 2023	Removed from “Attachment A”

Non-substantive edits were also made for clarity.

## 2. Background

On August 10, 2022, the President signed the [PACT Act](#) into law, establishing substantial legislative changes for how the Department of Veterans Affairs (VA) processes claims for toxic exposed Veterans and their survivors. This historic, multifaceted law:

- Expands locations associated with radiation exposure;
- Expands presumptive conditions associated with herbicide exposure;
- Expands locations associated with herbicide exposure;
- Amends the statute involving Persian Gulf War Veterans;
- Establishes presumptive conditions associated with toxic exposures;
- Triggers changes to medical examination requirements when there is documented toxic exposure risk activity; and
- Provides an avenue for a claimant-elected reevaluation of previously denied dependency and indemnity compensation (DIC) claims that can result in retroactive effective dates.

Initial guidance was released to the field on August 10, 2022, followed by interim guidance on September 9, 2022. With the issuance of VBA Letter 20-22-10, both

Director (00)

previous documents were rescinded as of January 1, 2023. With the issuance of this updated Policy Letter, all previous guidance documents are rescinded as of June 17, 2024.

### 3. General Overview

The policy guidance in this updated letter is effective June 17, 2024. While the PACT Act contains phased-in applicability dates, in a September 20, 2022, Decision Memorandum, the Secretary of VA determined that all presumptions in the PACT Act will be applicable on the date the bill was signed into law. This means August 10, 2022, is the earliest effective date for establishing entitlement to service-connected compensation benefits under this policy.

**Exception:** Claims regarding service-connected death benefits may have an effective date earlier than August 10, 2022. Please refer to the below titled “**Service-connected Death Benefit Effective Dates**” under **Section 5: Effective Dates**.

Compensation Service (CS) updated the VA Form 21-526EZ, *Application for Disability Compensation and Related Compensation Benefits*, to include a new toxic exposure section. This update assists with identifying claims related to toxic exposure. Further, Pension and Fiduciary Service (P&F) updated the VA Forms 21P-534EZ, *Application for DIC, Survivors Pension, and/or Accrued Benefits* and 21P-535, *Application for Dependency and Indemnity Compensation by Parent(s) (Including Accrued Benefits and Death Compensation When Applicable)*, to include a new question pertaining to electing reevaluation of a previously denied DIC claim.

This policy guidance will be incorporated into the M21-1, Adjudication Procedures Manual. CS and P&F are drafting regulatory updates to 38 C.F.R. Parts 3 and 4 that will be published in the *Federal Register* to implement the PACT Act.

Nothing in this guidance affects or alters section 804 the PACT Act known as the Camp Lejeune Justice Act of 2022.

### 4. PACT Act Titles

The PACT Act contains a total of nine titles, each of which contains multiple sections. Not all titles and sections impact disability compensation, pension and/or death benefits, as the law also involves items such as the expansion of health care eligibility, research studies, and authorization of new medical facilities. This letter focuses on the titles and sections that impact compensation and/or death benefits. Claims processors may reference and review the entire text of the [PACT Act](#).

#### 4.1 Title I – Expansion of Health Care Eligibility

Most of Title I impacts the Veterans Health Administration (VHA). However, section 102 does include three definitions relating to toxic-exposed Veterans, which are important

Director (00)

for claims processors' awareness. The three definitions are toxic exposure, toxic exposed Veteran, and toxic exposure risk activity (TERA).

- “Toxic exposure” is defined in [38 U.S.C. § 101\(37\)](#) to include, a toxic exposure risk activity, as defined in section [1710\(e\)\(4\)](#), and an exposure to a substance, chemical or airborne hazard identified in the list under section [1119\(b\)\(2\)](#).
  - 38 U.S.C. § 1710(e)(4) defines the terms Vietnam-era herbicide-exposed Veteran, radiation-exposed Veteran, and TERA (addressed below).
  - 38 U.S.C. § 1119(b)(2) states the Secretary of VA shall establish and maintain a list that identifies substances, chemicals and airborne hazards that are appropriate for presumptions of specific toxic exposure for members who served in certain locations.
    - This is addressed further under Title III, Section 302(b).
- “Toxic exposed Veteran” is defined in [38 U.S.C. § 101\(38\)](#) and means any Veteran described in Section 1710(e)(1) of this title.
  - [38 U.S.C. § 1710\(e\)\(1\)](#) addresses healthcare eligibility and expands upon Vietnam-era herbicide-exposed Veterans, radiation-exposed Veterans, Persian Gulf Veterans, chemical and biological warfare testing, armed forces who served at Camp Lejeune, and Veterans who participated in a toxic exposure risk activity.
- “Toxic exposure risk activity (TERA)” is defined in [38 U.S.C. § 1710\(e\)\(4\)\(C\)](#) as any activity that requires a corresponding entry in an exposure tracking record system (as defined in Section 1119(c)); or that the Secretary determines qualifies for purposes of this subsection when taking into account what is reasonably prudent to protect the health of Veterans.
  - Section 1119(c) defines “exposure tracking record system” as any system, program, or pilot program used by the Secretary of Veterans Affairs or the Secretary of Defense to track how Veterans or members of the Armed Forces have been exposed to various occupational or environmental hazards.
  - This includes the Individual Longitudinal Exposure Record (ILER), or successor system.

The definition of TERA is important for the implementation of the modified disability examination requirements addressed under Title III.

***See the section on Title III for information on TERA when applying this definition to disability examinations.***

#### ***4.2 Title II – Toxic Exposure Presumption Process***

Section 202 of this Title expands VA’s ability to establish presumptions of service connection based upon a toxic exposure. It provides guidelines VA must follow when considering and establishing new presumptive conditions. Section 202 does not require action from the ROs, but it will impact how VA Central Office determines adding future presumptions.

Director (00)

Section 203 requires outreach to disability compensation claimants when there are changes in presumptions of service connection. Section 204 allows DIC claimants to elect to have previously denied claims involving presumptions of service connection reevaluated when there are changes in presumptions of service connection.

#### *Outreach to Previously Denied Veterans*

[38 U.S.C. § 1167, Outreach pursuant to changes in presumptions of service connection](#), states VA must identify all previously denied disability compensation claims that might be evaluated differently when there is an establishment of or modification to a presumption of service connection. VA must then conduct outreach to the identified claimants, informing them that a supplemental claim may be submitted in light of the establishment or modification of the presumption.

This applies to the presumptive changes made in the PACT Act. It also applies to any future change made to presumptions. VBA will conduct outreach to Veterans with qualifying service who were previously denied entitlement to compensation. This includes Veterans who may now be eligible under an expanded location or to Veterans who were previously denied entitlement to service-connected compensation for one of the new presumptive conditions. For changes under the PACT Act, identified radiation-exposed Veterans, herbicide-exposed Veterans and Gulf War Veterans received a letter soliciting a supplemental claim. A copy of outreach letters sent are associated with the related Veterans' e-folders in the Veterans Benefits Management System (VBMS).

#### *Outreach to Previously Denied Survivors*

Section 204 adds new [38 U.S.C. § 1305, Reevaluation of dependency and indemnity compensation determinations pursuant to changes in presumptions of service connection](#). For DIC claims, whenever a law, regulation, or Federal court decision or settlement establishes or modifies a presumption of service connection, this section requires the Secretary to identify claims that were submitted and denied prior to the date on which the law went into effect and to notify potentially entitled beneficiaries that they may elect to have their claims reevaluated. When elected by the claimant, VA is required to reevaluate such claims. Section 1305 provides for reevaluation of previously denied DIC claims and the award of effective dates "as if the establishment or modification of the presumption of service connection had been in effect on the date of the submission of the original claim" without regard to 38 U.S.C. § 5110.

Section 204 and new 38 U.S.C. § 1305 are not limited to any one specific provision of the expanded presumptions within the PACT Act. Thus, per the language of section 204, its effective date retroactivity provisions would apply "with respect to presumptions of service connection established or modified on or after the date of enactment of the Act, including pursuant to amendments made by this Act." This would include, for example, new presumptions created in sections 403 and 406, discussed below. The provisions of Section 204 have been added to [38 C.F.R. § 3.33](#).

Director (00)

### *Supplemental Claims*

If a supplemental claim is received for a new or modified presumption, the law change to the presumption is sufficient to trigger VA's duty to review the claim. The establishment of effective dates for these supplemental claims falls under [38 C.F.R. § 3.114\(a\)](#) and in conformity with 38 U.S.C. [§§ 5101](#) and [5110\(g\)](#).

If a claim is affected by a new or modified presumption, the claimant is not required to submit new and relevant evidence under [38 C.F.R. § 3.2501\(a\)\(1\)](#) to support a supplemental claim. Although 38 U.S.C. § 1167(b) provides for supplemental claims, which ordinarily require new and relevant evidence, it is well established that VA may review claims based on a liberalizing law without the need for new and relevant evidence. Accordingly, for supplemental claims based on a new or modified presumption, VA will review the claim as if the requirements of 38 C.F.R. § 3.2501(a)(1) had been satisfied.

A prescribed form is still required. If the claim was previously denied, the Veteran must submit a VA Form 20-0995, *Decision Review Request: Supplemental Claim* form to have the claim considered under the PACT Act provisions. The change in law obviates the new and relevant evidence requirement for the purposes of considering a supplemental claim complete.

If the supplemental claim is received, claims processors will follow [M21-1, X.ii.2.A.2.](#), *Considering Supplemental Claims*. When a supplemental claim is filed requesting review of a previously denied claim based upon a liberalizing law or regulation, VA must readjudicate the prior denial based upon a newly authorized theory of service connection.

### *Higher-Level Reviews (HLR), AMA Remands and Legacy Appeals*

If an HLR is received for a claim subject to a new or modified presumption, then VA will consider entitlement to service connection for the issue based on the new guidance, regardless of when the claim was filed for which the HLR was received. The effective date assigned should accord with [38 C.F.R. § 3.114\(a\)](#) and 38 U.S.C. [§§ 5101](#) and [5110\(g\)](#), but VA should also investigate (for effective date purposes) whether there was entitlement prior to the new/modified presumption.

The new or modified presumption is not considered new evidence for purposes of an HLR under 38 CFR 3.2601(f). If a claim is affected by a new or modified presumption, then VA must review whether entitlement to service connection is warranted based on the new theory of service connection. The claimant is not required to submit an explicit request with the HLR to have the claim reviewed under the new guidance. When completing an HLR, VA should discuss any relevant theories of service connection when the claim is affected by updated or new policy guidance.

Director (00)

When VA is reviewing an HLR and service connection cannot be granted without additional development under [38 CFR 3.2601\(g\)](#), VA will identify the duty to assist error and return for correction of the claim. VA will complete the development required to adequately address the claim based on the newly authorized theory of service connection discussed in this Policy Letter.

For legacy appeals, VA will review those claims prior to certification to the Board of Veterans' Appeals for any potential development that may be required by updated policy guidance, in accordance with the procedures outlined in [M21-5, 7.F.3.c](#). In these cases, no request for review from the claimant will be necessary. Legacy appeals still awaiting a *de novo* review and/or the issuance of a Statement of the Case will follow the same guidance.

For AMA remands that include the new or modified presumption, no request for review from the claimant will be necessary. VA will complete the development required to adequately address the claim based on the newly authorized theory of service connection discussed in this Policy Letter.

#### ***4.3 Title III – Improving the Establishment of Service Connection Process for Toxic-Exposed Veterans***

Section 302 includes several new provisions. This section is implemented in [38 U.S.C. § 1119](#).

##### *Consideration of Records*

Section 302(a) covers consideration of records. It states that if VA receives a service-connected compensation claim for a disability with evidence of a disability and a toxic exposure that occurred during active military service, VA may consider any record of the Veteran in an exposure tracking record system (such as, but not limited to, ILER). If there is no record in an exposure tracking record system, VA may then consider the totality of the circumstances of the Veteran's service.

When adjudicating claims based on toxic exposure, claims processors **must** consider all evidence of record. This could include ILER, Joint Legacy Viewer (JLV), personnel records, Veterans Information Solution (VIS) and other sources.

**Note:** The PACT Act requires VHA to conduct a toxic exposure screening for enrolled Veterans at least once every five years. This report will be associated into the Veteran's treatment records. The existence of a screening in the treatment records does not constitute a claim, rather the information in this report, in addition to any follow up clinical evaluation, may be utilized when processing claims related to toxic exposures.

##### *Presumption of Specific Toxic Exposure for Members Who Served in Certain Locations*

Section 302(b) states the Secretary of VA shall establish and maintain a list that

Director (00)

identifies substances, chemicals and airborne hazards that are appropriate for presumptions of specific toxic exposure for covered Veterans under 38 U.S.C. § 1119(c)(1).

- VBA and VHA will collaborate with the Department of Defense (DoD) to create this list. The list will be implemented in future rulemaking and guidance will be later issued. This impending rulemaking does not impact the policies outlined in this letter.

*Presumptions for Covered Veterans*

Section 406 (covered under Title IV) creates presumptions of service connection for various cancers and respiratory conditions. These presumptions apply to the covered Veterans in 38 U.S.C. § 1119(c)(1), as added by Section 302. The term “covered Veteran” for this purpose is defined in [38 U.S.C. § 1119\(c\)\(1\)](#) and shown in the table below.

A “covered Veteran” means any Veteran who performed active military, naval, air or space service while assigned to a duty station:

In, or in the airspace above ...	On or after ...
Bahrain Iraq Kuwait Oman Qatar Saudi Arabia Somalia, or United Arab Emirates	August 2, 1990
Afghanistan Djibouti Egypt Jordan Lebanon Syria Yemen Uzbekistan, or Any other country determined relevant by the Secretary of VA	September 11, 2001

**Important:** The definition of covered Veteran includes all countries in the Southwest Asia theater of operation as defined in [38 C.F.R. § 3.317\(e\)\(2\)](#), except for the neutral zone between Iraq and Saudi Arabia, the Gulf of Aden, the Gulf of Oman, the Persian Gulf, the Arabian Sea and the Red Sea. Since the covered Veteran definition does not include these locations, VA will resolve this issue by adding these locations to the definition of covered Veteran in future rulemaking for the purpose of eligibility for the presumptions of service connection in [38 U.S.C. § 1120, as established by section 406](#).



Director (00)

While this regulatory update is in progress, claims processors will include these additional locations when considering claims based on covered service under section 1119(c).

Based on data provided from DoD via the VA/DoD Identity Repository (VADIR), the *Toxic Exposure – Sec. 1119 Covered Veteran* flash was attached to records of covered Veterans. If this flash is on a Veteran's record, claims processors will accept it as proof of covered service for the countries in the table above.

In some circumstances, the flash does not cover service in the neutral zone between Iraq and Saudi Arabia, the Gulf of Aden, the Gulf of Oman, the Persian Gulf, the Arabian Sea, or the Red Sea. If the flash is not on a Veteran's record but there is evidence of record indicating Gulf War service, claims processors will review all evidence, such as ILER, personnel records and/or the DD Form 214, *Certificate of Uniformed Service*, to determine if the Veteran had covered service in these additional locations.

#### *Examinations and Medical Opinions*

Section 303, implemented in [38 U.S.C. § 1168](#), requires a disability examination and medical opinion be requested for certain non-presumptive conditions involving TERA. For such claims, VA is required to provide a disability examination and medical opinion when the Veteran submits a claim for compensation, has evidence of a disability, has evidence of participation in a TERA and such evidence is not sufficient to establish service connection for the disability.

***Important:*** Section 1168(b) creates an exception to the requirement of providing examinations and medical opinions. The exception applies when the Secretary determines there is no indication of an association between the claimed condition and the TERA for which the Veteran submitted evidence. This statutory exception is addressed in the section below, *Exception to TERA Examination and Medical Opinion Requirement*.

Unless the exception applies, when a medical opinion involving a TERA is requested, the examiner must consider the total potential exposure through all applicable deployments and the synergistic, combined effect of all toxic exposure risk activities of the Veteran. Claims processors need to provide information to the examiner on potential exposures through all military deployments and all TERAs in which the Veteran participated.

Existing language in [38 U.S.C. § 5103A\(d\)](#) requires VA to provide a disability examination or medical opinion when the record does not contain sufficient evidence to decide the claim. New section 1168 differs for TERAs because a disability examination and medical opinion will be provided when evidence is not sufficient to establish service connection for the condition. The language requires a disability examination when service connection for a condition cannot be granted, rather than when a decision

Director (00)

cannot be made (which could be a grant or denial), unless the exception in section 1168(b) applies.

This will primarily apply when the claimed condition is not subject to a presumption. However, this also applies when the Veteran claims a presumptive condition and does not have qualifying service in a recognized location but may have other exposure(s) shown in the totality of the evidence. For recognized presumptive conditions, existing and newly established under the PACT Act, a disability examination should be requested, as needed, to determine severity.

*Toxic Exposure Risk Activity Claim Review – Presumptive and Non-Presumptive*

When reviewing a claim for a condition that may be related to a TERA, claims processors must consider all possible exposures and the potential residual conditions. The exposure could be location-based, specific to military occupational duties or other exposures. Other exposures broadly cover other military garrison exposures.

Claims processors must recognize claims that may be related to a TERA. Such a claim could be:

- A presumptive claim – a Veteran with qualifying service claims a presumptive condition,
- An explicit claim – a Veteran specifically claims a condition as being due to a toxic exposure,
  - **Note:** Exceptions to requesting a disability examination and medical opinion with an explicit claim are addressed below under *Exception to TERA Examination and Medical Opinion Requirement*

OR

- An implicit claim – a Veteran claims a condition but does not specifically attribute the condition to a toxic exposure, yet the condition claimed reasonably raises the issue of association with a toxic exposure or there is evidence in the record of participation in a TERA.

**Note:** Explicit and implicit claims include claims related to garrison exposures. VHA defines a garrison exposure<sup>1</sup> as an environmental exposure that may have been experienced while stationed on a military base. Any Veteran may claim any condition due to any environmental exposure that may have been experienced while stationed on a military base. This includes exposures to substances such as asbestos, fuels, lead, and per- and polyfluoroalkyl substances.

Claims processors must review the evidence of record to determine whether it is sufficient to establish that the claimant participated in a TERA.

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<sup>1</sup> [Garrison exposures and health concerns - Public Health \(va.gov\)](#)

Director (00)

**Important:** Any military service that qualifies for a presumption of exposure must be considered as a TERA. This includes all locations and other/occupational exposures based on herbicide, radiation, locations in the Persian Gulf War, Mustard Gas and Lewisite, Camp Lejeune, and burn pit/particulate matter exposures. If the Veteran served in a location or has an exposure based on these presumptions and submits a claim for a non-presumptive condition, a disability examination and medical opinion must be requested, unless an exception, noted below, applies.

- If the Veteran served in a location for which VA recognizes a presumption of toxic exposure, participation in a TERA would be established, even if not claimed.

#### *Toxic Exposure Risk Activity Claim Review – Examination Threshold*

Due to the modified disability examination threshold for conditions related to a TERA, claims processors may find themselves in a situation where in the past they normally would not have ordered a disability examination based on insufficient evidence. However, unless an exception applies, VA must now obtain a disability examination with a medical nexus opinion before service connection for a condition related to a TERA can be denied, whether the condition is an explicit or implicit TERA-related claim.

Claims processors must consider all available evidence when determining whether to concede a TERA. This may include, but is not limited to:

- Full ILER record
  - Name-only entries and records from contractor or civilian service periods should *not* be accepted as participation in a TERA.
  - Claims processors must validate self-reported information to determine if the alleged exposure is consistent with the facts and circumstances of the Veteran's service. For information on how to identify self-reported information in ILER, please refer to the [ILER Guidance](#). See Exception 6 below.
- Service treatment records
- Service personnel records
- VA and private treatment records
- Lay statements
- Locations of known non-presumptive exposures
- Locations of known presumptive exposures
- Expert report or testimony
- Military occupational specialty

Claims processors must liberally construe the evidence of record when considering whether the Veteran has a TERA. Reasonable doubt must be applied in all cases per [38 C.F.R § 3.102](#). Claims processors must concede participation in a TERA if it is consistent with the places, types and circumstances of the Veteran's service, to include consideration of the Veteran's military occupational specialty (see [38 C.F.R. §3.303\(a\)](#)).

Director (00)

*Exception to TERA Examination and Medical Opinion Requirement*

38 U.S.C. § 1168(b) provides that these new disability examination and opinion requirements do not apply if the Secretary determines there is no indication of an association between the disability claimed by the Veteran and a TERA for which the Veteran submitted evidence. At this time, VA has identified six situations in which this exception applies. VA may provide further guidance addressing additional situations in which the exception applies at a later date.

**Condition-based Exceptions:**

1. **Non-presumptive claims based on physical trauma.** This is based on a lack of scientific evidence indicating an association between such injuries and toxic exposure. VBA defines “physical trauma”<sup>2</sup> as “a serious injury to the body.” Three main types of physical trauma are:
  - a. Blunt force trauma — when an object or force strikes the body, often causing concussions, deep cuts, or broken bones,
  - b. Trauma due to repetitive use<sup>3</sup> — when repeated stress to the body’s soft tissue structures, including muscles, tendons, and nerves, results in repetitive strain injuries, and
  - c. Penetrating trauma — when an object pierces the skin or body, usually creating an open wound.

**Note:** Penetrating traumas with toxic embedded fragments<sup>4</sup> do **not** fall under this exception. An embedded fragment is a piece of metal or other material (also referred to as shrapnel) that stays in the body after injury.

**Note:** Hearing loss is **not** considered a physical trauma under this exception.

2. **Mental disorders.** This would include any condition included in [38 C.F.R. § 4.130](#), the mental disorders section of the VA Schedule for Rating Disabilities.

**Note:** Toxic exposure can result in symptoms of neurobehavioral decline, like decreased memory and concentration. A diagnosis of a mental disorder should be considered on a direct or secondary basis.

3. **Conditions determined to have no positive association with herbicide exposure.** These are conditions determined by the Secretary based on cumulative scientific data reported by the National Academies of Science since 1993. The conditions are as follows:
  - a. Cancers of the oral cavity (including lips and tongue), pharynx (including tonsils), and nasal cavity (including ears and sinuses),

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<sup>2</sup> [Physical Trauma \(nih.gov\)](#)

<sup>3</sup> [Chronic occupational repetitive strain injury. - PMC \(nih.gov\)](#)

<sup>4</sup> [Toxic Embedded Fragment Surveillance Center fact sheet \(va.gov\)](#)

Director (00)

- b. Cancers of the pleura, mediastinum, and other unspecified sites within the respiratory system and intrathoracic organs,
- c. Cancers of the digestive organs (esophageal cancer; stomach cancer, colorectal cancer (including small intestine and anus),
- d. Hepatobiliary cancers (liver, gallbladder, and bile ducts), and pancreatic cancer,
- e. Bone and connective tissue cancer,
- f. Melanoma,
- g. Nonmelanoma skin cancer (basal cell and squamous cell),
- h. Cancers of the reproductive organs (cervix, uterus, ovary, testes, breast, and penis; excluding prostate),
- i. Cancers of the brain and nervous system (including eye),
- j. Endocrine cancers (including thyroid and thymus),
- k. Leukemia (other than all chronic B-cell leukemias including chronic lymphocytic leukemia and hairy cell leukemia),
- l. Neurobehavioral disorders (cognitive and neuropsychiatric),
- m. Neurodegenerative diseases (including amyotrophic lateral sclerosis (ALS) but excluding Parkinson's disease and Parkinsonism),
- n. Chronic peripheral nervous system disorders (other than early-onset peripheral neuropathy),
- o. Asthma,
- p. Chronic obstructive pulmonary disease,
- q. Farmer's lung,
- r. Gastrointestinal, metabolic, and digestive disorders,
- s. Immune system disorders (immune suppression, allergy, and autoimmunity),
- t. Circulatory disorders (other than hypertension, ischemic heart disease, and stroke),
- u. Endometriosis,
- v. Hearing loss,
- w. Diseases of the eye and
- x. Osteoporosis.

**Note:** The conditions under this exception only apply to herbicide exposure. Claims processors must still consider all evidence as there may be a record of a different TERA (other than herbicides).

4. **Claims for disabilities that manifested during military service or with an etiology not associated with toxic exposure.** This exception applies to conditions that manifested during service for which a medical nexus opinion would not be needed to decide service connection on a direct basis (evidence of chronicity or continuity is of record) and to claims where the evidence of record indicates that the claimed condition is clearly related to an etiology that is **not** associated with toxic exposure (to include post-service event).
- a. Claims processors must liberally apply reasonable doubt when determining if this exception applies. When there is an approximate balance of evidence,

Director (00)

err on the side of caution and request the TERA disability examination and medical nexus opinion.

***Circumstance-based Exceptions:***

5. **The only participation in a TERA that is established is based on an entry in an exposure tracking record system, such as ILER, that does not corroborate or correspond to an activity carried out by the Veteran during active military service that could result in potential exposure to toxic substances, chemicals, or airborne hazards.**
  - a. There are circumstances where an entry in ILER does not demonstrate that the Veteran performed an activity with the potential for exposure to toxic substances, chemicals, or airborne hazards. This may include entries such as routine health encounters, (e.g., treatment for ankle sprain), but where there is otherwise no evidence that the Veteran was potentially exposed to toxic substances, chemicals, or airborne hazards during military service. Based on these types of circumstances, and pursuant to section 1168(b), VA would not be required to provide a disability examination and/or opinion.
  
6. **The only participation in a TERA that is established is based on an entry in an exposure tracking record system, such as ILER, that is based on the Veteran's self-reports of exposure to toxic substances, chemicals and airborne hazards that cannot be substantiated.**
  - a. This exception applies for entries that are self-reported records that cannot be substantiated, such as a post-service health assessment or a registry. This includes self-reported records that are inconsistent with the information available and circumstances of the Veterans' service or provide insufficient information to permit reasonable verification. If, for example, ILER reveals the Veteran reports serving in a combat zone but such finding is inconsistent with the facts and circumstances of the Veteran's service, then such ILER entry would not be a basis for providing a disability examination and/or opinion under section 1168.

For the exceptions addressed in 1, 2, and 3, claims processors should not order a disability examination based upon a TERA if the Veteran claims service connection for a non-presumptive disability *unless* the Veteran submits competent medical or scientific evidence of an association between their disability and the in-service TERA.

The condition-based exceptions (1-4) should be assessed prior to conducting a full file review based on the condition(s) claimed. However, the circumstance-based exceptions addressed in 5 and 6 will only be applied if the record identified is **the only** evidence of participation in a TERA after full review of the record. In these cases, claims processors are conceding participation in a TERA, but no TERA-related examination and medical opinion should be requested as in such circumstances, there would be no indication of an association between the disability claimed by the Veteran and the TERA.

**Note:** The language of new section 1168(a) would require VA to obtain a disability examination and medical opinion "if a *veteran* submits to the Secretary a claim for

Director (00)

*compensation.*” A survivor submitting a claim for DIC is distinct from a Veteran submitting a claim for compensation, and thus would not fall under the purview of the new section. See *Delarosa v. Peake*, 515 F.3d 1319, 1321-22 (Fed. Cir. 2008) (noting that the requirement to provide medical examinations for compensation claims in 38 U.S.C. § 5103A(d) does not apply to DIC claims)<sup>5</sup>. However, VA may still be required to provide an opinion in relation to a DIC claim pursuant to 38 U.S.C. § 5103A(a).

#### **4.4 Title IV – Presumptions of Service Connection**

Title IV contains updates to presumptive conditions and conceded locations for presumptions of exposure when establishing entitlement to presumptive service-connected compensation or service-connected death benefits.

**Note:** Two of the expanded locations include service at an atoll. An atoll is defined as a ring-shaped coral reef, island, or series of islets.<sup>6</sup>

#### *Radiation*

Sections 401 and 402 provide expanded locations associated with radiation exposure. Three additional exposure events are now recognized as radiation-risk activities in [38 U.S.C. § 1112](#) for purposes of presumption of service connection of certain disabilities. These locations have been added to [38 C.F.R. § 3.309\(d\)\(3\)\(ii\)](#).

A presumption of exposure to radiation must now be conceded for the following:

- Veterans who participated in the cleanup of **Enewetak Atoll** during the period beginning on January 1, 1977 and ending on December 31, 1980.
  - From 1948 to 1958, the United States conducted 43 nuclear tests on the Enewetak Proving Ground in the Pacific Ocean.
  - This participation involves the radiological cleanup, rehabilitation and resettlement of Enewetak Atoll in the Marshall Islands.
- Veterans who participated in the nuclear response effort near **Palomares, Spain** during the period beginning January 17, 1966 and ending March 31, 1967.
  - This involves onsite participation in the response effort following the collision of a United States Air Force B-52 bomber and refueling plane that caused the release of four thermonuclear weapons in the vicinity of Palomares, Spain.
- Veterans who participated in the nuclear response effort near **Thule, Greenland** during the period beginning January 21, 1968 and ending September 25, 1968.

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<sup>5</sup> VA may still be required to provide an opinion in relation to a DIC claim pursuant to 38 U.S.C. § 5103A(a). For more information regarding requesting an opinion in relation to a DIC claim, please see [M21-1 Part XII, Subpart i, 1.B.1.h](#).

<sup>6</sup> [Atoll | National Geographic Society](#)

Director (00)

- This involves onsite participation in the response effort following the on-board fire and crash of a United States Air Force B-52 bomber that caused the release of four thermonuclear weapons in the vicinity of Thule Air Force Base, Greenland.

**Note:** The PACT Act did not change the recognized diseases specific to radiation-exposed Veterans. See [38 C.F.R. § 3.309\(d\)\(2\)](#) for the list of diseases presumptive to radiation-exposure.

### *Herbicides*

Sections 403 and 404 expand the locations associated with herbicide exposure and added two new presumptive conditions to the list of diseases associated with exposures to certain herbicide agents in [38 U.S.C. § 1116](#).

In addition to the herbicide exposed locations in [38 C.F.R. § 3.307\(a\)\(6\)](#) and for the Blue Water Veterans who served in the 12 nautical mile territorial waters of the Republic of Vietnam, exposure to certain herbicide agents must now be presumed for active military, naval, or air service in the following locations:

- In **Thailand at any United States or Royal Thai** base during the period beginning on January 9, 1962, and ending on June 30, 1976, without regard to where on the base the Veteran was located or what military occupational specialty was performed.
  - This replaces the procedures on Thailand service in [M21-1, VIII.i.1.A.4.](#), which required Veterans to have a certain military occupational specialty (MOS) or service involving work on the perimeter of the base in order to concede herbicide exposure.
    - If a Veteran has qualifying Thailand service, exposure to herbicides should be presumed.
    - Service on the perimeter and qualifying military occupational specialty are no longer required to concede herbicide exposure in Thailand.
  - This presumption of herbicide exposure does not extend to service only in the territorial waters of Thailand.
  - VA determined that this presumption will be expanded to apply if there is evidence a Veteran served on a ship that called at a Thailand coastal base during the qualifying period.
    - Several Royal Thai bases were on the coast of Thailand, which creates potential for a U.S. Naval vessel to have called on a base that was on the coast of Thailand.
    - When VA implements this section in 38 C.F.R. § 3.307, the presumption of exposure to herbicides will be extended to Veterans who served aboard a ship that called at a coastal base.
    - Claims processors must apply this extension of the presumption.



Director (00)

- For purposes of determining whether a Veteran had covered service in Thailand for entitlement to spina bifida benefits, covered service in Thailand means service in Thailand at any United States or Royal Thai base during the period beginning on January 9, 1962, and ending on May 7, 1975, without regard to where on the base the Veteran was located or what military job specialty the Veteran performed.
  - This applies to benefits under [38 U.S.C. § 1822](#) and will be implemented in [38 C.F.R. § 3.814](#).
  - This only applies to spina bifida. It does **not** apply to other birth defects under [38 U.S.C. § 1812](#).
- In **Laos** during the period beginning on December 1, 1965, and ending on September 30, 1969.
  - Laos is a landlocked country, which means there are no offshore waters. There is no potential for a Veteran to serve in the territorial waters of Laos.
- In **Cambodia at Mimot or Krek, Kampong Cham Province** during the period beginning on April 16, 1969, and ending on April 30, 1969.
  - The two municipalities within Mimot and Krek are landlocked. There is no potential for a Veteran to serve in territorial waters of Mimot or Krek.
- In **Guam or American Samoa**, or in their territorial waters, during the period of beginning on January 9, 1962, and ending on July 31, 1980.
  - The presumption of exposure applies to service in territorial waters of Guam and American Samoa.
- In **Johnston Atoll**, or on a ship that called to Johnston Atoll during the period beginning on January 1, 1972, and ending on September 30, 1977.
  - The presumption of exposure applies to Veterans who served on a ship that called at the port or served on the atoll itself.
  - The Veteran must have served on the ship when it called to Johnston Atoll during the qualifying period.
  - The presumption of herbicide exposure for Johnston Atoll or a ship that called to Johnston Atoll does not extend into the offshore territorial waters of Johnston Island.

The additional diseases associated with exposure to certain herbicide agents are the following:

- Hypertension
  - Use diagnostic code 7101 – hypertensive vascular disease
- Monoclonal Gammopathy of Undetermined Significance (MGUS)
  - Use diagnostic code 7712 – multiple myeloma

**Note:** There is no requirement for diabetes mellitus type 2, Parkinsonism, bladder cancer, hypothyroidism, MGUS or hypertension to manifest to a degree of disability of 10 percent or more to qualify as a presumptive disease under 38 U.S.C. § 1116(a)(2).

Director (00)

The statute, at [38 U.S.C. § 1116](#), *Presumptions of service connection for diseases associated with exposure to certain herbicide agents; presumption of exposure for veterans who served in certain locations*, has been updated to include these locations and conditions. VBA will revise 38 C.F.R. §§ 3.307 and 3.309 in upcoming regulatory updates to implement these sections.

#### *Application of Nehmer v. United States Department of Veterans Affairs*

On October 21, 2022, the Secretary of VA signed an executive decision memorandum, *Guidance for Processing Claims and Appeals for Disability Compensation and [DIC] Involving Presumptive Conditions Following the Enactment of the [PACT Act]*. The memorandum addresses VA's obligations under the *Nehmer v. United States Department of Veterans Affairs*, consent decree as they relate to the PACT Act. In the PACT Act, Congress struck the presumptive processes established under [Public Law 102-4, Agent Orange Act of 1991](#) and codified in [38 U.S.C. § 1116\(b\)](#), and created [separate and distinct processes for newly created toxic exposure presumptions](#). This means the *Nehmer* consent decree does not apply to presumptions of service connection created on or after August 10, 2022, the date the PACT Act was enacted. This includes live compensation claims and claims based on service-connected death.

Since the PACT Act includes a provision that amends VA's procedures for newly created presumptions, compensation claimants who are granted benefits for the two newly created herbicide presumptions under the PACT Act, hypertension and MGUS, are not entitled to the type of retroactive awards available to *Nehmer* class members. Although the *Nehmer* consent decree does not apply to presumptions of service connection created on or after August 10, 2022, for DIC, as noted above, consideration must be given to section 204 and the new 38 U.S.C. § 1305. Thus, per the language of section 204, its effective date retroactivity provisions would apply "with respect to presumptions of service connection established or modified on or after the date of enactment of the Act, including pursuant to amendments made by this Act." This would include, for example, new presumptions created in sections 401, 402, 403, 404, and 406.

Under 38 U.S.C. § 1305, at the election of the claimant, VA would be required to reevaluate previously denied DIC claims for when presumptions of service connections are established or modified. If VA grants any such claim, section 1305 provides for the award of effective dates "as if the establishment or modification of the presumption of service connection had been in effect on the date of the submission of the original claim" without regard to 38 U.S.C. § 5110. See 4.2 above for a discussion on outreach requirements to previously denied survivors under section 204.

#### *Presumption of Service Connection for Certain Disabilities Occurring in Persian Gulf Veterans*

Section 405 reduces the threshold for establishing eligibility when considering

Director (00)

presumptive service connection for Persian Gulf War Veterans for undiagnosed illnesses and medically unexplained chronic multisymptom illnesses. Presumptive conditions under [38 C.F.R. § 3.317\(a\) and \(b\)](#) may now manifest to any degree at any time. This means there is no longer a requirement for a chronic disability to manifest to a degree of 10% or more prior to December 31, 2026, as currently stated in the regulation. The end date is no longer applicable and will be removed in a forthcoming regulatory change.

The definition of Persian Gulf Veteran now includes Afghanistan, Israel, Egypt, Turkey, Syria and Jordan, along with those who served in the Southwest Asia theater of operations as defined in [38 C.F.R. § 3.317\(e\)](#).

There is no change to infectious disease locations under [38 C.F.R. § 3.317\(c\)](#).

**Important:** The locations in 38 U.S.C. § 1119 (covered Veterans) and 38 U.S.C. § 1117 (Persian Gulf Veterans) largely overlap; however, they **are not** identical.

- Claims processors must ensure these lists are followed separately.
- Not all Veterans who fall under the Persian Gulf Veteran definition qualify under the covered Veteran definition.
- Not all Veterans who fall under the covered Veteran definition qualify under the Persian Gulf Veteran definition.
- TERA must be considered for both Persian Gulf Veterans and covered Veterans.
- The *Toxic Exposure - Sec. 1119 Covered Veteran* flash **does not** verify service for a Persian Gulf Veteran, implemented in [38 C.F.R. § 3.317 \(a\) and \(b\)](#).

The statute, at [38 U.S.C. § 1117](#), *Compensation for disabilities occurring in Persian Gulf War Veterans*, has been updated with the amended language and expanded locations. VBA will revise 38 C.F.R. § 3.317 in upcoming regulatory updates to reflect these changes.

*Presumptive Service Connection Based on Exposure to Toxic Substances, Chemicals, and Airborne Hazards, Including Fine Particulate Matter, During the Gulf War*

Section 406 establishes a presumption of service connection for certain diseases associated with exposure to burn pits and other toxins for covered Veterans. The list of conditions broadly covers most, but not all, cancers and respiratory conditions. Covered Veterans are addressed in the table under Title III.

The PACT Act does not require the newly added presumptive conditions to meet a minimum level of disability or manifest within a certain period.

Rating guidance, identified diagnostic codes, and the presumptive conditions associated with exposure to burn pits and other toxins are contained in [Attachment A, Presumption of Service Connection for Certain Diseases Associated with Exposure to Burn Pits and Other Toxins](#).

Director (00)

**Note:** Attachment A has been updated. The non-exclusive list of reproductive cancers (page 26) covered under 38 U.S.C. § 1120 now includes male and female breast cancer, urethral cancer, and cancer of the paraurethral glands.

The statutes, at [38 U.S.C §§ 1119](#), *Presumptions of toxic exposure*, and [1120](#), *Presumption of service connection for certain diseases associated with exposure to burn pits and other toxins*, address covered Veterans and the presumptive conditions, respectively. VA will revise [38 C.F.R. § 3.320](#), *Claims based on exposure to fine particulate matter*, in upcoming regulatory updates to implement these sections. Rather than solely covering presumptions based upon exposure to fine particulate matter, updated § 3.320 will cover presumptive service connection for various toxic substances, chemicals, and airborne hazards, to include particulate matter and burn pit exposure.

VA will extend the presumption of exposure to fine particulate matter in [38 C.F.R. § 3.320](#) to all section 1119 covered Veterans. In addition to the current 3.320 locations, this will now apply to Somalia, Egypt, Jordan, Lebanon, and Yemen based on evidence of similar arid desert climate conditions and airborne hazards in these locations.<sup>7</sup>

**Important:** Congress added a distinction after listing asthma as a presumptive condition. The PACT Act specifies, “asthma that was diagnosed after service of the covered Veteran as specified in § 1119(c).” We interpret this to mean the presumption only applies when asthma is diagnosed after service. Asthma is also a condition presumed to be associated with exposure to fine particulate matter per 38 C.F.R. § 3.320. The presumption in 38 C.F.R. § 3.320 currently requires asthma to manifest within 10 years from the date of separation from a qualifying period of service. Since section 1120(b)(1) provides authority for VA to apply a presumption of service connection notwithstanding the 10 year manifestation period that is included in the current regulatory presumption, VA will resolve this issue by removing the 10 year manifestation period in future rulemaking. While this regulatory update is in progress, claims processors will not require a 10 year manifestation period for asthma diagnosed after service.

While the presumption may only apply to asthma that is diagnosed after service, asthma diagnosed in service should generally be service connected on a direct basis.

VA also intends to expand the presumption of exposure to fine particulate matter to all covered locations in § 1119(c). To be consistent with current processing of most presumptions and to streamline the adjudication of these claims, VA will implement the PACT Act presumption for asthma without the qualifying language that requires the condition to be diagnosed after the covered service in § 1119(c). To summarize:

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<sup>7</sup> Jiandong Wang et al., *Historical Trends in PM<sub>2.5</sub>-Related Premature Mortality during 1990–2010 across the Northern Hemisphere*. Environmental Health Perspectives. 2017. 125:3. CID: <https://doi.org/10.1289/EHP298>; Melanie S. Hammer et al., *Global Estimates and Long-Term Trends of Fine Particulate Matter Concentrations (1998–2018)*. Environ. Sci. Technol. 2020, 54, 7879–7890. <https://doi.org/10.1021/acs.est.0c01764>.

Director (00)

- If the Veteran has a diagnosis prior to, or during service, entitlement to service-connected compensation for asthma must be considered under other theories of entitlement (i.e., direct, aggravation). This is consistent with the application of other presumptions of service connection.
- The presumption of service connection only applies when asthma is diagnosed after service. There is no need to make a distinction as to whether asthma was diagnosed after the covered service in § 1119(c).

As 38 U.S.C. §§ 1119 and 1120 subsume the existing regulation, claims processors should no longer apply 38 C.F.R. § 3.320 as written; claims processors should follow the guidance in this policy letter.

### *Presumption of Toxic Exposure for Covered Veterans Under 38 U.S.C. § 1119*

As noted in the *Presumptive Service Connection Based on Exposure to Toxic Substances, Chemicals, and Airborne Hazards, Including Fine Particulate Matter During the Gulf War* section above, the presumption of exposure to fine particulate matter under 38 C.F.R. § 3.320 will be extended. The presumption includes the following:

- All covered Veterans who served in the locations listed in 38 U.S.C. § 1119(c); and
- Exposure to toxic substances, chemicals and airborne hazards, including fine particulate matter.

**Important:** Primary sources of particulate matter in the § 1119(c) locations include the following:

- Dust storms and other wind-borne suspension of organic and inorganic particles,
- Diesel engine emissions from generators and military vehicles and trucks,
- Burn pit emissions, and
- Industrial pollutants.

This means the presumption of exposure to fine particulate matter includes exposure to burn pits. As such, the procedural concession of burn pit exposure in [M21-1, VIII.iii.9.A and B](#) will be incorporated into the fine particulate matter presumptions.

- If a Veteran claims a disability related to exposure to burn pits, claims processors must consider the claim under the presumption of exposure to fine particulate matter.

## **5. Effective Dates**

The PACT Act was signed into law on August 10, 2022, so any grant for service-connected compensation on a presumptive basis under this law cannot precede this date. The effective date provisions under [38 U.S.C § 5110](#) and [38 C.F.R. § 3.400](#) should be followed. Effective date provisions due to a change of law under [38 C.F.R. § 3.114](#) also apply.

**Exception:** Claims regarding service-connected death benefits may have an effective

Director (00)

date earlier than August 10, 2022. Please refer to the below titled “**Service-connected Death Benefit Effective Dates.**”

**Reminder:** While the PACT Act contains phased-in applicability dates, in a September 20, 2022, Decision Memorandum, the Secretary of Veterans Affairs determined that all claimants for presumptions in the PACT Act are capable of demonstrating other sufficient cause, such that all presumptions in the PACT Act will be applicable the date of enactment. This means August 10, 2022, is the earliest effective date for establishing entitlement to service-connected compensation benefits under this policy.

Treating all new presumptions of service connection for conditions due to toxic exposure and the expanded locations for the presumption of exposure to herbicide agents as applicable immediately upon enactment of the PACT Act represents a Veteran-centric approach.

### *Service-connected Death Benefit Effective Dates*

Under section 204 of the PACT Act, the effective date retroactivity provisions for DIC reevaluations apply “with respect to presumptions of service connection established or modified on or after the date of enactment of the Act, including pursuant to amendments made by this Act.” This would include, for example, new presumptions created in sections 401, 402, 403, 404 and 406.

When elected by the claimant, VA is required to reevaluate such claims. Section 1305 provides for reevaluation of previously denied DIC claims and the award of effective dates “as if the establishment or modification of the presumption of service connection had been in effect on the date of the submission of the original claim” without regard to 38 U.S.C. § 5110. When a valid request to reevaluate a previously denied claim is received and retroactive benefits are warranted, VA must assign an effective date as if the newly established or modified presumption was in effect at the time of the original DIC claim.

The effective date and applicability date for these new presumptive conditions is August 10, 2022, the same day that the law went into effect. This is considered a liberalizing law. Therefore, for new claims (claimant did not elect VA reevaluate the previously denied claim or there is no previous claim), consideration of the effective date provisions under 38 U.S.C. 5110(g) (38 C.F.R. § 3.114) and 38 U.S.C. 5110(d) (38 C.F.R. § 3.400(c)) should be applied, allowing for consideration, in some cases, for an effective date earlier than the date of claim or date of enactment.

**Important:** Section 204 does not contain a time limit on when a claimant can request reevaluation of a previously denied DIC claim.

Director (00)

**6. Contact for Help/Questions**

Submit questions on Compensation Service Procedures, which includes supplemental claims, to [VBANEWCSPACTACT@va.gov](mailto:VBANEWCSPACTACT@va.gov).

Submit questions concerning service-connected death procedures to Pension and Fiduciary Service at [FPOLPROC.VBACO@va.gov](mailto:FPOLPROC.VBACO@va.gov).

Submit questions to the Office of Administrative Review on legacy appeals, AMA remands and higher-level reviews to [OARADMIN.VBAWAS@va.gov](mailto:OARADMIN.VBAWAS@va.gov).

Submit questions to the Office of Field Operations on operational issues to [OFO.VBACO@va.gov](mailto:OFO.VBACO@va.gov).

/s/

Joshua Jacobs

Under Secretary for Benefits

Director (00)

**Attachment A:**

**Presumption of Service Connection for Certain Diseases Associated with Exposure to Burn Pits and Other Toxins**

**Diagnostic Codes for Gulf War Presumptions**

<b>Disease</b>	<b>CS - Identified Diagnostic Conditions</b>
Asthma	6602 – asthma, bronchial
Chronic Bronchitis	6600 – bronchitis, chronic
Constrictive Bronchiolitis or Obliterative Bronchiolitis	<ul style="list-style-type: none"> <li>• 6600 – bronchitis, chronic</li> <li>• 6601 – bronchiectasis</li> <li>• 6602 – asthma, bronchial</li> </ul> 6603 – emphysema, pulmonary
Chronic Obstructive Pulmonary Disease	6604 – chronic obstructive pulmonary disease
Emphysema	6603 – emphysema, pulmonary
Granulomatous disease	<ul style="list-style-type: none"> <li>• 6820 – neoplasms, benign</li> <li>• 6524 – granulomatous rhinitis</li> </ul> 6828 – eosinophilic granuloma
Interstitial Lung disease	<ul style="list-style-type: none"> <li>• 6825 – fibrosis of lung, diffuse interstitial</li> <li>• 6826 – desquamative interstitial pneumonitis</li> <li>• 6827 – pulmonary alveolar proteinosis</li> <li>• 6828 – eosinophilic granuloma</li> <li>• 6829 – drug-induced, pneumonitis &amp; fibrosis</li> <li>• 6830 – radiation-induced, pneumonitis &amp; fibrosis</li> <li>• 6831 – hypersensitivity pneumonitis</li> <li>• 6832 – pneumoconiosis</li> <li>• 6833 – asbestosis</li> </ul>
Pleuritis	<ul style="list-style-type: none"> <li>• 6732 – pleurisy, active or inactive</li> <li>• 6845 – pleural effusion or fibrosis</li> </ul>
Pulmonary Fibrosis	<ul style="list-style-type: none"> <li>• 6825 – fibrosis of lung, diffuse interstitial</li> <li>• 6826 – desquamative interstitial pneumonitis</li> <li>• 6827 – pulmonary alveolar proteinosis</li> <li>• 6828 – eosinophilic granuloma</li> <li>• 6829 – drug-induced, pneumonitis</li> </ul>



Director (00)

Disease	CS - Identified Diagnostic Conditions
	& fibrosis <ul style="list-style-type: none"> <li>• 6830 – radiation-induced, pneumonitis &amp; fibrosis</li> <li>• 6831 – hypersensitivity pneumonitis</li> <li>• 6832 – pneumoconiosis</li> <li>• 6833 – asbestosis</li> <li>• 6845 – pleural effusion or fibrosis</li> </ul>
Sarcoidosis	<ul style="list-style-type: none"> <li>• 6846 – sarcoidosis</li> </ul>
Chronic Rhinitis	<ul style="list-style-type: none"> <li>• 6501 (historic)</li> <li>• 6522 – allergic or vasomotor rhinitis</li> <li>• 6523 – bacterial rhinitis</li> <li>• 6524 – granulomatous rhinitis</li> </ul>
Chronic Sinusitis	<ul style="list-style-type: none"> <li>• 6510 – sinusitis, pansinusitis, chronic</li> <li>• 6511 – sinusitis, ethmoid, chronic</li> <li>• 6512 – sinusitis, frontal, chronic</li> <li>• 6513 – sinusitis, maxillary, chronic</li> <li>• 6514 – sinusitis, sphenoid, chronic</li> </ul>
Head cancers	<ul style="list-style-type: none"> <li>• 5012 – bones, neoplasm, malignant, primary or secondary</li> <li>• 5329 – sarcoma, soft tissue</li> <li>• 6014 – malignant neoplasms of the eye, orbit, and adnexa (excluding skin)</li> <li>• 6208 – malignant neoplasm</li> <li>• 7123 – soft tissue sarcoma</li> <li>• 7712 – Multiple myeloma</li> <li>• 7818 – malignant skin neoplasms</li> <li>• 8540 – soft-tissue sarcoma (Neurogenic origin)</li> <li>• 9918 – neoplasm, hard and soft tissue, malignant</li> </ul>
Neck cancers	<ul style="list-style-type: none"> <li>• 5012 – bones, neoplasm, malignant, primary or secondary</li> <li>• 5329 – sarcoma, soft tissue</li> <li>• 6819 – neoplasms, malignant</li> <li>• 7123 – soft tissue sarcoma</li> <li>• 7712 – Multiple myeloma</li> <li>• 7818 – malignant skin neoplasms</li> <li>• 7914 – malignant neoplasm</li> <li>• 8021 – malignant</li> </ul>

Director (00)

Disease	CS - Identified Diagnostic Conditions
	<ul style="list-style-type: none"> <li>• 8540 – soft-tissue sarcoma (Neurogenic origin)</li> </ul>
Respiratory cancers	<ul style="list-style-type: none"> <li>• 6819 – neoplasms, malignant</li> </ul>
Gastrointestinal cancers	<ul style="list-style-type: none"> <li>• 7343 – neoplasms, malignant</li> </ul>
Reproductive cancers	<ul style="list-style-type: none"> <li>• 7528 – malignant neoplasms</li> <li>• 7627 – malignant neoplasms of gynecological system</li> <li>• 7630 – malignant neoplasms of the breast</li> </ul>
Lymphoma cancers	<ul style="list-style-type: none"> <li>• 7709 – Hodgkin’s lymphoma</li> <li>• 7715 – Non-Hodgkin’s lymphoma</li> </ul>
Kidney cancer	<ul style="list-style-type: none"> <li>• 7528 – malignant neoplasms</li> </ul>
Brain cancer	<ul style="list-style-type: none"> <li>• 8002 – malignant</li> </ul>
Melanoma	<ul style="list-style-type: none"> <li>• 7833 – malignant melanoma</li> </ul>
Pancreatic cancer	<ul style="list-style-type: none"> <li>• 7343 – neoplasms, malignant</li> </ul>
Glioblastoma	<ul style="list-style-type: none"> <li>• 8002 – malignant</li> </ul>

VA interprets the definition for the presumptive cancers and granulomatous disease in a broad and inclusive manner.

When working a claim that involves a presumptive condition due to exposure to burn pits and other toxins under the PACT Act, note the following:

- Only chronic diseases qualify. Acute and transitory conditions, which are not of a chronic nature, do not qualify for presumptive service connection.
- Only malignant tumors qualify for presumptive service connection for the established cancers.
- Benign neoplasm or any other non-malignant disease processes do not qualify under these presumptive diseases.
- Skin cancers, other than melanoma, only qualify for presumptive service connection if the location of the malignancy is the head or neck.
- All melanomas qualify for presumptive service connection, regardless of location.
- Sarcomas may only be considered for presumptive service connection if located in the head or neck areas or located within a presumptive body system malignancy, such as renal sarcoma.
- Only primary cancers may be considered as a presumptive disease. Metastatic or secondary cancers would not warrant service connection on a presumptive basis; see [M21-1, V.ii.2.B.1.b.](#)

### *Information on Cancers*

Below is a list of the most common diagnoses found within the presumptive cancer categories established by the PACT Act. Also included are common diagnoses

Director (00)

associated with granulomatous disease of the respiratory system. The diagnoses identified within their respective categories **do not** represent an exclusive, exhaustive list.

Head Cancer Diagnoses – Head cancers include malignancies found in the locations of the scalp, face, mouth, aural areas, lips and hard or soft palate. The below list is **not** all-inclusive. Examples of head cancers are as follows:

- Malignant ear tumors – ceruminous adenoma, rhabdomyosarcoma
- Malignant tumors of the eye and adnexa–iris, ciliary body, vitreous, retina, optic disc, eyelid, and orbit tumors
- Neuroendocrine tumors of the orbit
- Carcinoid tumors of the orbit and ocular adnexa
- Pituitary carcinoma
- Melanoma
- Basal cell carcinoma of the skin
- Squamous cell carcinoma of the skin
- Oral cavity squamous cell carcinoma
- Pharyngeal cancer – keratinizing squamous cell carcinoma, non-keratinizing squamous cell carcinoma, basaloid squamous cell carcinoma
- Jaw cancer – squamous cell carcinoma, osteosarcoma, ameloblastic carcinoma, primary intraosseous carcinoma, clear cell odontogenic carcinoma, ghost cell odontogenic carcinoma, odontogenic carcinosarcoma, odontogenic sarcoma, multiple myeloma
- Tongue cancer – adenoid cystic carcinoma, mucoepidermoid carcinoma, polymorphous low-grade carcinoma
- Oropharyngeal cancer – squamous cell carcinoma, salivary gland cancer, lymphoma, minor salivary gland tumors, lymphoepithelioma
- Nasopharyngeal cancer – squamous cell carcinoma, keratinizing undifferentiated carcinoma, non-keratinizing undifferentiated carcinoma
- Paranasal sinus and nasal cavity cancer – squamous cell carcinoma, adenocarcinoma, adenoid cystic cancer, lymphoma, plasmacytoma, melanoma, olfactory neuroblastoma, neuroendocrine carcinoma, fibrosarcoma, undifferentiated pleomorphic sarcoma, leiomyosarcoma, rhabdomyosarcoma
- Salivary gland cancer – mucoepidermoid carcinoma, adenoid cystic carcinoma, acinic cell carcinoma, polymorphous adenocarcinoma, adenocarcinoma not otherwise specified (NOS), secretory carcinoma
- Sarcoma – osteosarcoma, fibrosarcoma, dermatofibrosarcoma, low-grade fibromyxoid sarcoma, fibromatosis, liposarcoma, leiomyosarcoma, rhabdomyosarcoma, leiomyosarcoma, ectomesenchymoma, malignant schwannoma, malignant mesenchymoma, malignant ganglioma
- Sarcoma in blood vessels – angiosarcoma, hemangioendothelioma, hemangiopericytoma, solitary fibrous tumor, vascular sarcoma
- Ewing sarcoma (endocrine)
- Malignant Pineal Gland

Director (00)

Neck Cancer Diagnoses – Neck cancers include malignancies found in the locations of the neck, pharynx and larynx. The below list is **not** all-inclusive. Examples of neck cancers are as follows:

- Melanoma
- Basal cell carcinoma of the skin
- Squamous cell carcinoma of the skin
- Oral cavity squamous cell carcinoma
- Pharyngeal cancer – keratinizing squamous cell carcinoma, non-keratinizing squamous cell carcinoma, basaloid squamous cell carcinoma
- Tongue cancer – adenoid cystic carcinoma, mucoepidermoid carcinoma, polymorphous low-grade carcinoma
- Oropharyngeal cancer – tonsillar cancer, squamous cell carcinoma, salivary gland cancer, lymphoma, minor salivary gland tumors, lymphoepithelioma
- Hypopharyngeal cancer – squamous cell carcinoma, adenoid cystic carcinoma, mucoepidermoid carcinoma, lymphoma
- Laryngeal cancer – squamous cell carcinoma, adenocarcinoma, sarcoma, chondrosarcoma, lymphoma, plasmacytoma
- Thyroid cancer – anaplastic thyroid cancer, papillary, follicular, medullary
- Sarcoma – osteosarcoma, fibrosarcoma, dermatofibrosarcoma, low-grade fibromyxoid sarcoma, fibromatosis, liposarcoma, leiomyosarcoma, rhabdomyosarcoma, leiomyosarcoma, ectomesenchymoma, malignant schwannoma, malignant mesenchymoma, malignant ganglioma
- Sarcoma in blood vessels – angiosarcoma, hemangioendothelioma, hemangiopericytoma, solitary fibrous tumor, vascular sarcoma
- Ewing sarcoma (endocrine)
- Spinal cord malignant tumors – malignant peripheral nerve sheath tumor, malignant schwannoma, solitary plasmacytoma, osteosarcoma, chondrosarcoma, Ewing's sarcoma, chordoma, lymphoma, multiple myeloma

Gastrointestinal cancers – Gastrointestinal cancers include any malignancy found in the gastrointestinal system from the tongue to the anus. The below list is **not** all-inclusive. Examples of gastrointestinal cancers are as follows:

- Stomach cancer – intestinal carcinoma, diffuse adenocarcinoma, lymphoma, gastrointestinal stromal tumor, carcinoid tumors
- Esophageal cancer – squamous cell carcinoma, adenocarcinoma
- Small intestine cancer – adenocarcinoma, sarcoma, carcinoid tumor, gastrointestinal stromal tumor, lymphoma
- Colorectal cancer – adenocarcinoma, carcinoid, gastrointestinal stromal tumor, lymphoma
- Anal cancer – Carcinoma in situ (Bowen's disease), squamous cell cancer, adenocarcinoma, basal cell cancer, melanoma
- Pancreatic cancer – adenocarcinoma of the pancreas
- Liver cancer – hepatocellular carcinoma of the liver and intrahepatic tract
- Tongue cancer – adenoid cystic carcinoma, mucoepidermoid carcinoma, polymorphous low-grade carcinoma

Director (00)

- Salivary gland cancer – mucoepidermoid carcinoma, adenoid cystic carcinoma, acinic cell carcinoma, polymorphous adenocarcinoma, adenocarcinoma not otherwise specified (NOS), secretory carcinoma  
Cancers of the spleen<sup>8</sup>

Reproductive cancers – The below list is **not** all-inclusive. Examples of reproductive cancers are as follows:

- Female reproductive cancer – cervical cancer, ovarian cancer, uterine cancer, vaginal cancer, vulvar cancer, breast cancer, urethral cancer, cancer of paraurethral glands
- Male reproductive cancer – testicular cancer, penile cancer, prostate cancer, breast cancer, urethral cancer, cancer of paraurethral glands

Respiratory cancers - Respiratory cancers consist of any malignancies located in the nose to the pleural space. The below list is **not** all-inclusive. Examples of respiratory cancers are as follows:

- Non-small lung cancer – squamous cell carcinoma (epidermoid carcinoma), large cell carcinoma, adenocarcinoma, pleomorphic carcinoma, carcinoid tumor, salivary gland carcinoma, unclassified carcinoma
- Small cell lung cancer – small cell carcinoma (oat cell cancer), combined small cell carcinoma
- Sarcomoid carcinoma of the lung
- Sarcomatoid carcinoma of the lung
- Adenosquamous carcinoma of the lung
- Typical and atypical carcinoid of the lung
- Squamous cell carcinoma of the trachea, adenocarcinoma of the trachea
- Laryngeal cancer – glottis neoplasm, laryngeal neuroendocrine neoplasm, subglottis neoplasm, supraglottis neoplasm
- Cancer of the bronchus – adenocarcinoma, squamous cell carcinoma, large-cell carcinoma
- Pharyngeal cancer – keratinizing squamous cell carcinoma, non-keratinizing squamous cell carcinoma, basaloid squamous cell carcinoma
- Oropharyngeal cancer – squamous cell carcinoma, salivary gland cancer, lymphoma, minor salivary gland tumors, lymphoepithelioma
- Nasopharyngeal cancer – squamous cell carcinoma, keratinizing undifferentiated carcinoma, non-keratinizing undifferentiated carcinoma
- Paranasal sinus and nasal cavity cancer – squamous cell carcinoma, adenocarcinoma, adenoid cystic cancer, lymphoma, plasmacytoma, melanoma, olfactory neuroblastoma, neuroendocrine carcinoma, fibrosarcoma undifferentiated pleomorphic sarcoma, leiomyosarcoma, rhabdomyosarcoma
- Laryngeal cancer – squamous cell carcinoma, adenocarcinoma, sarcoma, chondrosarcoma, lymphoma, plasmacytoma

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<sup>8</sup> [Primary Tumors of the Spleen - PMC \(nih.gov\)](#)

Director (00)

Lymphoma cancers –The below list is **not** all-inclusive. Examples of lymphomas are as follows:

- Non-Hodgkin’s lymphoma
- Hodgkin’s lymphoma
- Diffuse B-cell lymphoma, other non-Hodgkin mature B-cell lymphoma, follicular B-cell lymphoma, small cell B-cell lymphoma
- T-cell lymphoma
- Mantle-cell lymphoma
- Burkitt lymphoma
- Anaplastic large cell lymphoma
- Mycosis fungoides
- Lymphoblastic lymphoma

**Note:** The NDAA for Fiscal Year 2023 removed “Lymphomatic cancer of any type” from the list of presumptive cancers under 38 U.S.C. § 1120(b)(2) since “lymphomatic” is essentially a fictitious term and such conditions are sufficiently covered by the existing “Lymphoma cancer of any type” category.

Kidney cancer diagnoses – The below list is **not** all-inclusive. Examples of kidney cancer are as follows:

- Renal cell carcinoma – clear cell, papillary, chromophobe, clear cell papillary, collecting duct, medullary, unclassified
- Non-renal cell carcinoma –Wilms tumor, renal sarcoma

Brain cancer diagnoses – The below list is **not** all-inclusive. Examples of brain cancers are as follows:

- Astrocytoma – glioblastoma, anaplastic astrocytoma, diffuse astrocytoma, pineal astrocytic tumors, brain stem glioma, pilocytic astrocytoma, subependymal giant cell astrocytoma
- Oligodendrogliomas
- Ependymomas – cellular, papillary, tanycytic, RELA fusion-positive, clear cell
- Mixed gliomas (Oligoastrocytoma)
- Pituitary carcinoma

Melanoma diagnoses – The below list is **not** all-inclusive. Examples of melanoma diagnoses are as follows:

- Skin – superficial spreading melanoma, nodular melanoma, lentigo maligna melanoma, acral lentiginous melanoma
- Eye – choroidal melanoma, conjunctival melanoma, iris melanoma
- Mucosal melanoma (originate in tissues that line internal areas of the body)

Pancreatic cancer diagnoses – The below list is **not** all-inclusive. Examples of pancreatic cancers are as follows:

- Exocrine – adenocarcinoma, squamous cell carcinoma, adenosquamous carcinoma, colloid carcinoma

Director (00)

- Neuroendocrine pancreatic cancer

Glioblastoma

- Primary and secondary glioblastoma

Granulomatous Diseases

- Any granulomatous disease within the respiratory system to include bronchocentric granulomatosis, pulmonary Langerhans cell histiocytosis, Erdheim-Chester disease, pulmonary necrotizing granuloma, and eosinophilic granuloma of the lung.