

A collection of various news emails recently sent to VVA Chapter 1069 by our TSC – April 2019

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New legislation would recognize nine more diseases caused by Agent Orange

From: John A Miterko, Veterans Advocate, Austin, TX
By NIKKI WENTLING - STARS AND STRIPES

Published: April 17, 2019

WASHINGTON — A group of lawmakers introduced legislation that would add nine more diseases to a list of conditions presumed to be caused by the chemical herbicide Agent Orange, giving veterans who suffer from them a fast-track to Department of Veterans Affairs disability compensation and health care. The Keeping Our Promises Act, introduced last week, adds prostate cancer, bladder cancer, hypothyroidism, hypertension, stroke, early-onset peripheral neuropathy, AL amyloidosis, ischemic heart disease and Parkinson-like syndromes to a list of diseases presumed to be caused by Agent Orange exposure during the Vietnam War.

Researchers with the National Academy of Medicine released findings in November that there was "suggestive" evidence that eight of the diseases could be caused by Agent Orange. For hypertension, researchers found that "sufficient" evidence exists.

"American heroes affected by Agent Orange deserve the peace of mind knowing that the federal government recognizes the existing link between their exposure and illness," said Rep. Brian Fitzpatrick, R-Penn., one of eight lawmakers who banded together to introduce the legislation.

VA experts have begun a "formal, deliberative review" of the National Academy of Medicine's latest report, VA Press Secretary Curt Cashour said Tuesday. The review is expected to be complete in the summer, at which time the agency will make recommendations about presumptive conditions, he said.

During a Senate hearing March 26, Richard Stone, the executive in charge of the Veterans Health Administration, guessed the review would be complete within 90 days.

"We're working our way through that right now," Stone said of the national academy report. Recommendations would be sent to VA Secretary Robert Wilkie, who would choose when – and whether to act on them.

The VA previously recommended that some of the conditions be added. After the last National Academy of Medicine report in 2016, the VA took 20 months before it sent recommendations to the White House that bladder cancer, hypertension, hyperthyroidism and Parkinson's-like tremors be added to the list. The recommendation hasn't made it past the White House's Office of Management and Budget. Last year, VA officials told the House Committee on Veterans' Affairs that the Office of Management and Budget is waiting for results of ongoing mortality and morbidity studies, which could provide more evidence of a connection between the diseases and Agent Orange.

On Tuesday, Cashour said some of those results will be published as early as mid-2019. But some lawmakers don't want to wait on the executive process.

Fitzpatrick, along with Reps. Annie Kuster, D-N.H., Bruce Westerman, R-Ark., Scott Tipton, R-Colo., Elise Stefanik, R-N.Y., Joe Cunningham, D-S.C., Brendan Boyle, D-Penn., and Mike Thompson, D-Calif., are trying to use a legislative route. Boyle estimated it would help tens of thousands of Vietnam War veterans.

"This bipartisan legislation makes good on that promise by ensuring all servicemembers exposed to these herbicides and chemicals as a part of their military service get the health care they need," Boyle said in a statement. "Not one more servicemember should be forced to suffer in this way without the best care our federal government has to offer."

The bill is likely to face an uphill battle in Congress, where veterans and advocates have fought for years to prove toxic exposures and secure VA benefits.

Attempts failed in Congress last year to approve benefits for "blue water" Navy veterans – sailors who served on ships off the coast of Vietnam and argue they were exposed to Agent Orange. The veterans could be close to getting VA benefits, but the victory was won in court, not Congress.

The VA opposed the legislative effort to approve benefits for blue water Navy veterans, citing high costs and insufficient scientific evidence. The agency has not yet issued an opinion on the Keeping Our Promises Act.

Burn Pit Legislation 86th Texas Legislature

86(R) SB 131 - Introduced Version - Bill Text

Author: Hinojosa

Caption: Relating to the creation of an open burn pit registry for certain service members and veterans.

Excerpt: maintain an open burn pit registry for service members and veterans who were exposed to open burn pit smoke or other airborne hazards during certain military services. The bill would require DSHS to provide information on the agency's website to inform service members, veterans, and families about the open burn pit registry, related health effects of exposure to open burn pit smoke, and various treatments. The bill would take effect on September 1, 2019.

2/1/2019: referred to Veterans Affairs & Border Security

86(R) HB 306 - Introduced Version - Bill Text

Author: Herrero / Price / Lozano / Miller / Blanco

Caption: Relating to the creation of an open burn pit registry for certain service members and veterans. The bill would amend the Health and Safety Code relating to the creation of an open burn pit registry for certain service members and veterans. The bill would require the Department of State Health Services (DSHS) to create and maintain an open burn pit registry for service members and veterans who were exposed to open burn pit smoke or other airborne hazards during certain military services. The bill would require DSHS to provide information on the agency's website to inform service members, veterans, and families about the open burn pit registry, related health effects of exposure to open burn pit smoke, and various treatments. The bill would take effect on September 1, 2019.

Estimated Two-year Net Impact to General Revenue Related Funds for HB306, As Introduced: a negative impact of (\$2,592,235) through the biennium ending August 31, 2021.

3/25/2019: Considered Favorably as substituted in House Defense & Veterans Affairs Committee.

4/3/2019: Committee Report distributed & sent to Calendars.

4/8/2019: considered in Calendars

116th US Congress - Burn Pits Legislation

S.191 — 116th Congress (2019-2020) Burn Pits Accountability Act

This bill requires the Department of Defense (DOD) and the military departments to evaluate whether each member of the Armed Forces has been (1) based or stationed where an open air burn pit was used to dispose of waste, or (2) exposed to toxic airborne chemicals. Members located where an open burn pit was used or exposed to toxic airborne chemicals must be enrolled in the Airborne Hazards and Open Burn Pit Registry, unless the member elects not to enroll. The evaluations must be included in periodic health assessments, physical exams conducted immediately prior to separation from active duty, and

deployment assessments. DOD must share the results of the evaluations with the Department of Veterans Affairs.

Sponsor: Sen. Klobuchar, Amy [D-MN] (Introduced 1/17/2019)

Cosponsors: (31)

Committees: Senate - Armed Services

Latest Action: Senate - 01/17/2019 Read twice and referred to the Committee on Armed Services.

Tracker: This bill has the status Introduced

H.R.663 — 116th Congress (2019-2020) Burn Pits Accountability Act

This bill requires the Department of Defense (DOD) and the military departments to evaluate whether each member of the Armed Forces has been (1) based or stationed where an open air burn pit was used to dispose of waste, or (2) exposed to toxic airborne chemicals. Members located where an open burn pit was used or exposed to toxic airborne chemicals must be enrolled in the Airborne Hazards and Open Burn Pit Registry, unless the member elects not to enroll. The evaluations must be included in periodic health assessments, physical exams conducted immediately prior to separation from active duty, and deployment assessments. DOD must share the results of the evaluations with the Department of Veterans Affairs.

Sponsor: Rep. Gabbard, Tulsi [D-HI-2] (Introduced 1/17/2019)

Cosponsors: (153)

Committees: House - Armed Services, Veterans' Affairs Latest Action: House - 02/08/2019 Referred to the Subcommittee on Health.

Tracker: This bill has the status Introduced

H.R.1381 — 116th Congress (2019-2020) Burn Pit Registry Enhancement Act

To direct the Secretary of Veterans Affairs to take actions necessary to ensure that certain individuals may update the burn pit registry with a registered individual's cause of death, and for other purposes.

Sponsor: Rep. Ruiz, Raul [D-CA-36] (Introduced 02/26/2019)

Cosponsors: (8)

Committees: House - Veterans' Affairs

Latest Action: Senate - 03/07/2019 Read the second time. Placed on Senate Legislative Calendar under General Orders. Calendar No. 32.

Tracker: This bill has the status Passed House

S.554 — 116th Congress (2019-2020) Burn Pit Registry Enhancement Act

A bill to direct the Secretary of Veterans Affairs to take actions necessary to ensure that certain individuals may update the burn pit registry with the cause of death of a registered individual, and for other purposes.

Sponsor: Sen. Udall, Tom [D-NM] (Introduced 02/26/2019)

Cosponsors: (3)

Committees: Senate - Veterans' Affairs

Latest Action: Senate - 02/26/2019 Read twice and referred to the Committee on Veterans' Affairs.

Tracker: This bill has the status Introduced

H.R.1001 — 116th Congress (2019-2020) Family Member Access to Burn Pit Registry Act

To direct the Secretary of Veterans Affairs to provide a process by which a family member of a deceased individual who is eligible for the Department of Veterans Affairs burn pit registry may register for such registry on behalf of the deceased individual.

Sponsor: Rep. Castro, Joaquin [D-TX-20] (Introduced 2/06/2019)

Cosponsors: (8)

Committees: House - Veterans' Affairs

Latest Action: House - 03/01/2019 Referred to the Subcommittee on Health.

Tracker: This bill has the status Introduced

H.R.1005 — 116th Congress (2019-2020) Burn Pit Veterans Revision Act

To direct the Secretary of Veterans Affairs to amend the schedule for rating disabilities to add a diagnostic code and evaluation criteria for obliterative bronchiolitis, and for other purposes.

Sponsor: Rep. Castro, Joaquin [D-TX-20] (Introduced 2/06/2019)

Cosponsors: (6)

Committees: House - Veterans' Affairs

Latest Action: House - 03/01/2019 Referred to the Subcommittee on Disability Assistance and Memorial Affairs.

Tracker: This bill has the status Introduced

VA Blue Water Claims Update - Court Ruling Fuels Renewed Effort for Bill

In a 9-2 ruling, the U.S. Court of Appeals for the Federal Circuit ruled in favor of 73-year-old Alfred Procopio Jr., who served on the aircraft carrier Intrepid off Vietnam. He had been denied benefits by the VA for lack of scientific evidence that his diabetes and prostate cancer were related to exposure to the toxic defoliant Agent Orange. In her ruling for the majority supporting Procopio's claim, Judge Kimberly A. Moore wrote, "We find no merit in the government's arguments to the contrary." John Wells, a lawyer and Navy veteran who argued the case for Procopio, said that "innumerable veterans were denied palliative and potentially lifesaving benefits" in the long struggle for coverage. In a statement after the ruling, Wells, head of the Military Veterans Advocacy group, said, "The many people who fought this battle alongside us and the veterans whose lives have been forever changed by the VA's policy are all due thanks and credit." Major veterans organizations hailed the court's decision and urged Congress to move quickly on legislation for the aging Blue Water veterans. The court ruling "resolves a

decades-long controversy that has visited a grave injustice" on Blue Water veterans.". [Source: Military.com | Richard Sisk | January 30, 2019 ++]

VA secretary recommends DOJ not challenge ruling on 'blue water' benefits

By NIKKI WENTLING | STARS AND STRIPES Published: March 26, 2019

WASHINGTON — Department of Veterans Affairs Secretary Robert Wilkie recommended the Justice Department not contest a federal court ruling that could extend benefits to Vietnam veterans who served on ships offshore during the war, he announced Tuesday.

The Court of Appeals for the Federal Circuit ruled 9-2 in January that "blue water" Navy veterans are eligible for benefits related to the chemical herbicide Agent Orange. The decision could pave the way for disability compensation for tens of thousands of veterans who served aboard aircraft carriers, destroyers and other ships but had been deemed ineligible for the same disability benefits as those who served on the ground and inland waterways.

The Justice Department and the VA, which disputed the veterans' eligibility for the benefits, could challenge the decision before April 29 by seeking a review of the case from the U.S. Supreme Court. Wilkie said publicly for the first time Tuesday that he opposed a Supreme Court review. The announcement came during his testimony to the Senate Veterans' Affairs Committee. "Is it true, Secretary Wilkie, that the blue water Navy court decision isn't being challenged?" asked Sen. Johnny Isakson, R-Ga., the chairman of the committee. Wilkie replied, "That would be my recommendation from VA."

His stance differs from last year, when Wilkie fought efforts in Congress to extend benefits to blue water Navy veterans. At the time, he cited high costs and insufficient scientific evidence linking the veterans to Agent Orange exposure. Since the court ruling in January, some lawmakers and veterans organizations have urged Wilkie and President Donald Trump to end the court battle. Wilkie announced during his testimony before the Senate Veterans' Affairs Committee on Tuesday that he recommended the Justice Department not pursue the case. Sen. Mazie Hirono, D-Hawaii, asked him to "use your persuasive powers to make sure that happens."

"I think your recommendation will be key," said Sen. Richard Blumenthal, D-Conn. "I would express ... that the recommendation be adopted and endorsed heartily by this committee to bring fairness and justice to our blue water Navy veterans. It would culminate a bipartisan crusade."

Some veterans have fought for years to secure the benefits. The subject of the Court of Appeals case was Alfred Procopio Jr., 73, who served on the USS Intrepid during the Vietnam War. Ten years ago, the VA denied his disability claims for diabetes and prostate cancer. At issue in his case was interpretation of the current law, which allows easier access to disability benefits for veterans who "served in the Republic of Vietnam" and suffer from any illness on a list of those linked to Agent Orange. The herbicide has been found to cause respiratory cancers, Parkinson's disease and heart disease, as well as other conditions.

The court determined that territorial seas should be included in the definition of "Republic of Vietnam" — a point the government disputed. John Wells, one of the lawyers for Procopio, lauded Wilkie's

announcement Tuesday. “We thank the secretary for bringing this tragic episode to a close and look forward to working with him on issues dealing with implementation,” Wells said. Wells estimated that between 50,000 and 70,000 veterans could become eligible for benefits.

Isakson said if the court case goes unchallenged, the process of extending the benefits will be a formidable task. “If that happens, we’re going to be in the process of beginning to swallow a big bite,” he said. Likewise, Wilkie said the VA must work with Congress and might require creating a “historical division” that works with the Defense Department to comb through Navy records. He said Tuesday that he had opposed extending the benefits because, “I don’t think people had the way ahead laid out.” “I thought it was coming fast and furious, and I had not been given the opportunity to say, ‘If this happens, we have to come back to Congress to talk about what happens to appeals,’ ”Wilkie said. “We’re going to have to create, really, a historical division.”

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Justice Dept. Faces Pressure to Resist Appealing Vietnam Vets' Landmark Victory

Blue Water Navy Vietnam veterans recently won the support of Veterans Affairs Secretary Robert Wilkie for a court ruling that could make tens of thousands of former service members and their survivors eligible for benefits stemming from exposure to Agent Orange decades ago. But now they are awaiting the Trump administration’s decision whether to challenge the ruling in the U.S. Supreme Court. The Justice Department’s solicitor general’s office is weighing a challenge to the court ruling, issued by the U.S. Court of Appeals for the Federal Circuit. Any decision to appeal the court ruling would put the Trump administration at odds with Vietnam veterans—and the head of the Veterans Affairs office. The benefits have been estimated to cost Veterans Affairs more than \$1 billion over 10 years. The so-called “blue water” Navy vets served in the territorial waters offshore of the Republic of Vietnam. Until the Jan. 29 ruling by the full Federal Circuit, those veterans had been denied the presumption of Agent Orange exposure during the Vietnam War. The Justice Department, supporting the Department of Veterans Affairs’s interpretation, had argued that the Agent Orange Act covered only those veterans who served on the ground or inland waterways of Vietnam.

Posted by AgentOrangeZone at 6:30 PM on 5 April 2019

VA to Announce Decision on New Agent Orange Presumptive Conditions

Three years after a scientific body recommended that the Department of Veterans Affairs consider adding three conditions -- bladder cancer, hypothyroidism and Parkinson's-like symptoms -- to the list of qualifying diseases tied to Agent Orange, affected veterans may soon find out whether they are eligible for disability compensation and VA health care.

During a Senate Veterans Affairs hearing Tuesday on the VA budget, Dr. Richard Stone, the executive in charge of the Veterans Health Administration, said a decision on the three illnesses likely would come in the next 90 days.

Responding to a question from Sen. Sherrod Brown, D-Ohio, Stone said the VA is working "through this right now, and it would be my hope" to have a decision within three months. He added that the recommendation will go to VA Secretary Robert Wilkie for final approval.

"It's took this country far too long to come to terms with Agent Orange," Brown said.

In March 2016, the National Academy of Medicine found evidence that two conditions, bladder cancer and hypothyroidism, are likely linked to Agent Orange exposure and that a third condition, Parkinson-like symptoms, also should be included on the list of diseases presumed to be related to contact with the herbicide.

The announcement brought hope to thousands of veterans living with bladder cancer and thyroid problems, as well as those who have essential tremors and other symptoms similar to Parkinson's, but who haven't been diagnosed with the disease.

In late 2017, former VA Secretary Dr. David Shulkin said he had made a decision on whether to add the three conditions to the list of 14 Agent Orange-related illnesses, but it was never announced.

Military.com 26 March 2019 By Patricia Kime

VA Blue Water Claims Update - Now is the Time to File VA Form 21-0966

On January 29, in a 9-2 decision, the U.S. Court of Appeals for the Federal Circuit ruled in favor of the veteran in Alfred Procopio, Jr., v. Robert Wilkie, finding the intent of Congress in the Agent Orange Act of 1991 was to extend benefits to all veterans who served within the territorial waters of Vietnam, 12 nautical miles from shore. VVA recommends those veterans who think they may have served on a vessel in Vietnam's territorial waters reach out to their local Veterans Service Officer to file VA Form 21-0966, Intent to File a Claim. If VVA is your representative, go to Service Officer Locator on www.vva.org to find your local representative. If you do not wish to work with a service officer, you may fill out the VA Form 21-0966 form and submit it to the VA. VVA recommends Blue Water Navy veterans submit the VA Form 21-0966 if they have never filed an Agent Orange claim or if they have been denied an Agent Orange claim. If you are a spouse of a Blue Water Navy veteran who died from an Agent Orange-related illness, they recommend you also file a VA Form 21-0966. By submitting VA Form 21-0966, you preserve your effective date. You have one year from the day you submitted your VA Form 21-0966 to submit your claim for benefits. By submitting this form, you will be putting yourself in the best possible position while waiting to see how the VA responds to the Court's decision. To help your claim's success, it is recommended you start gathering evidence such as deck logs, service records, or anything else that could help prove the location of your vessel. VVA will keep you updated on suggested next steps as they continue to learn more information. [Source: VVA Press Release No. 19-4 | Mokie Porter | February 6, 2019 ++]

John A Miterko
Veterans Advocate

Will the benefits for 'blue water' Vietnam veterans be settled soon?

Troops from the First Cavalry Air Mobile Division watch the carrier USS Boxer after arrival at Qui Nhon, Vietnam, on Sept. 12, 1965.

The fate of disability benefits for "blue water" Vietnam veterans will be among the key topics lawmakers tackle when they return from their district break at the end of the month.

In January, a federal court ruled that the Department of Veterans Affairs for years has used faulty reasoning to deny disability benefits to veterans who served in ships off the waters of Vietnam. VA officials had argued that extending the benefits to an additional 90,000 veterans would cost as much as \$5 billion over 10 years, a figure that advocates have disputed.

This week, Sens. Kirsten Gillibrand, D-N.Y., and Steve Daines, R-Mont., announced plans to reinforce that ruling and establish a permanent fix for those veterans, who claim exposure to cancer-causing chemical defoliants has caused a host of rare cancers and respirator illnesses.

Already the chairman and ranking member of the House Veterans' Affairs Committee have introduced similar plans, and that House panel is preparing for an expansive hearing on the topic early next month.

Court rules VA must pay disability benefits to 'blue water' Vietnam veterans. The decision could affect up to 90,000 veterans who have been petitioning VA officials for disability payouts for years.

By: Leo Shane III

The Department of Justice has until the end of the month to appeal the ruling, but VA Secretary Robert Wilkie has advised against doing so. "Even though the court has ruled that the VA must provide these benefits, there is no guarantee it will happen," Gillibrand said in a statement. "Congress must create a permanent legislative fix."

Lawmakers came close to passing a bill doing that last year, but the measure was blocked on the Senate floor in the final days of December. Gillibrand and Daines said Congress needs to act now to ensure that any VA response to the court ruling isn't crafted too narrowly, again blocking aging veterans from receiving their deserved payouts.

Documents needed for Agent Orange claims filing

From: John Miterko <paladin_jam@yahoo.com>
Date: April 14, 2019 at 1:09:09 PM EDT
Subject: Documents needed for Agent Orange claims filing

The following is for your information and distribution to your members.

Documents needed for Agent Orange claims filing can be found using the following link.

<https://vva.org/wp-content/uploads/2019/02/AO-Postcard-nocrops-3.pdf>