

**Statement for the Record
Of**



Submitted by

Jack McManus, National President

Before the

House Committee on Veterans' Affairs

Regarding

**Fulfilling our Pact: Ensuring Effective Implementation of Toxic
Exposure Legislation**

December 7, 2022

Good afternoon, Chairman Takano, Ranking Member Bost, and other members of this distinguished committee. On behalf of the VVA National President Jack McManus and the membership of Vietnam Veterans of America, I thank you for affording VVA the opportunity to present our statement for the record about the implementation of the *Sergeant First Class (SFC) Heath Robinson Honoring our Promise to Address Comprehensive Toxics (PACT) Act of 2022*.

The *PACT Act* marks one of the greatest expansions of Veteran healthcare and benefits in our generation. Thanks to the tireless work and commitment of members of this Committee, other members of Congress, and Veterans' advocates, Veterans who have borne the burden of service and have suffered from the effects of toxic exposure now have a path forward to receive the critical care and compensation they justly deserve.

While passage of this legislation is an important victory for Veterans, their families, and survivors, we now face the arduous work of making sure that the implementation of this new law is done with oversight, responsibility, and with the best interests of our Veterans in mind.

I echo the sentiment expressed by members of this Committee: The House Committee on Veterans' Affairs must prioritize the full implementation of the *PACT Act* before turning its attention to new legislation. This legislation provides us with a unique opportunity to right past wrongs and proves our nation's commitment to future service members.

As the implementation of the *PACT Act* proceeds, VVA looks forward to working with this committee, VSO/MSO partners, and stakeholders to move ahead with best interests of our Veterans in mind.

Outreach and Education

A central challenge in the successful implementation of the *PACT Act* lies with the effective outreach and education to those Veterans who may be affected by toxic exposure. This means that the Department of Veterans Affairs must develop and execute a comprehensive and targeted communication plan. Such plan, to be successful, should be carried out in collaboration with all stakeholders, including Veterans Service Organizations (VSO) and Military Service Organizations (MSO) with deep ties to the communities where eligible Veterans and survivors live.

A troubling percentage of Veterans are unaware of the healthcare and benefits to which they may be entitled. Many are ill equipped to navigate the claims process. This is a problem that has plagued Veterans for generations.

There are thousands of Veterans who are simply hard to reach. They may live in rural areas without access to high-speed internet, or they may be homebound and isolated due to physical or mental maladies. As we strive to communicate with every Veteran, we must be mindful of the isolated and vulnerable members amongst us.

The Department of Veterans Affairs (VA), in conjunction with community partners, must do a better job of locating and educating these isolated veterans about the benefits to which they may be entitled. We must strive to reach every Veteran, no matter their location, race and ethnicity, or socioeconomic status.

Further, we must continue to reach out to those veterans who may have Post-9/11 toxic exposure – from Iraq to Afghanistan, from Kuwait to Kandahar. The VA and the Department of Defense must work together to communicate to current and separating servicemembers about their potential eligibility for care and benefits under the *PACT Act*.

We are encouraged that VA has made efforts to address these challenges--sending targeted emails, providing online resources, and developing stakeholder resource packages--all designed to enable them to communicate directly with Veterans communities.

No matter a Veteran's era of service, experience has shown that one of the best and most effective outreach methods is buddy-to-buddy contact. We should encourage and facilitate Veteran-to-Veteran support whenever and wherever possible. This will further ensure information is spread to Veterans who might be unaware of the benefits and support available through the VA.

Oversight

Congress must also work closely with VA to ensure that a comprehensive, achievable plan is in place to implement *PACT Act* provisions. Transparency to all stakeholders is the key to building trust and confidence as implementation moves ahead. I urge this committee to continue to have regular hearings on the VA's

progress and challenges. Further, as implementation will largely be regulatory based, it is important that VA and other agencies communicate openly and allow for timely input from stakeholders. Should any measures require legislative action, I would hope – and expect – for Congress to engage Vietnam Veterans of America and other advocates to move forward in the most efficient and effective way possible.

VA Capacity

We remain concerned about the VA's ability to process claims in a timely fashion, given the influx of new claims. While the VA has, apparently, made progress in readying for *PACT Act* implementation and benefits claim processing by hiring and training more than 2,000 employees, it remains to be seen whether this hiring and training effort will be sufficient – especially in the near term.

As was true prior to the passage of the *PACT Act*, the hiring and retention of quality healthcare professionals persists as both a challenge and a concern. From the VA's perspective, the Veterans Health Administration has struggled with hiring as it has had difficulty matching wages offered for private-sector, entry-level jobs, as well as the instant hiring capability of the private sector. VA is concerned that increased turnover is a new labor market norm—this hiring and retention issues will surely be at the forefront as the Veteran population continues to age and an increasing number of Veterans enter the system.

Further, I remain concerned that VA infrastructure, especially in terms of information technology, is inadequate to accommodate the enormous influx of claims data. It is imperative that all claims are gathered and reviewed as efficiently and accurately as possible. I urge you to exercise your legislative authority to ensure VA has the tools and resources needed to do so and that you hold VA and any third parties accountable with regular oversight.

Existing Backlog

According to the VA, Veterans have filed over 160,000 *PACT Act*-specific claims since August 10, 2022. This is in addition to 65,000 claims related to *PACT Act* conditions from August 1, 2021, through August 9, 2022. Thousands more claims are expected to be filed over the coming months.

Yet there is still a persistent issue about the processing of existing claims. I urge this Committee to continue to watch the progress – or lack of progress – in the prompt and correct processing of pre-*PACT Act* claims after the VA begins with claims processing in January of next year.

We commend VA for taking steps outlined in the *PACT Act* to screen all veterans enrolled in the VHA (Veterans Health Administration) for toxic exposure. As revelations about the health impact of environmental hazards continue, it is also imperative that VA engage in additional research regarding exposures to other environmental contaminants, including but not limited to, jet fuel, organophosphates such as Dursban, and PFAS (Polyfluoroalkyl Substances).

Section 804 Camp Lejeune Justice Act

On August 6, 2012, the *Honoring America's Veterans and Caring for Camp Lejeune Families Act* was signed into law (Public Law 112-154), thereby establishing presumptive conditions for those exposed to the contaminated water at Camp Lejeune, to include the following: esophageal cancer; lung cancer; breast cancer; bladder cancer; kidney cancer; leukemia; multiple myeloma; myelodysplastic syndromes; renal toxicity; hepatic steatosis; female infertility; miscarriage; scleroderma; neurobehavioral effects; and non-Hodgkin's lymphoma. A decade later, the *Camp Lejeune Justice Act* was incorporated into the *Honoring Our PACT Act*.

Section 804 of the law allows veterans or individuals who lived on, worked at, or were otherwise exposed for at least 30 days to the water at Camp Lejeune between August 1, 1953, and December 31, 1987, to file a claim for financial compensation due to harm caused by their toxic exposure. Veterans or their legal representatives, must file paperwork with the Department of the Navy (DoN) JAG Corps Tort Claims Unit to comply with statutory requirements.

Veterans must file no later than August 8, 2024, and they may not pursue legal action based on a claim denial more than 180 days after the denial of their claim by DoN. Claims may only be for harm resulting from exposure; they may not be punitive in nature. To wit, the current, albeit unofficial, cap on financial compensation for Camp Lejeune claims is \$500,000.

If a claimant is unsatisfied with DoN's settlement offer, they may file a lawsuit in federal court, but they must do so in the Eastern District of North Carolina. If a veteran decides to file a lawsuit, this affords them a right to a jury trial, and they are statutorily forbidden from bringing a subsequent lawsuit.

Subsequently, the law states, any veteran currently receiving benefits due to toxic exposure at Camp Lejeune will have those benefits reduced or suspended if they are derived from the VA, Medicare, or Medicaid, which is identified in the law as an offset.

While statutory construction appears to limit financial offsets to compensation already being received for Camp Lejeune-related toxic exposure, there is no elaboration on the offset's extent. Moreover, under the FTCA (*Federal Tort Claims Act*) where there is a 25 percent cap on attorney fees, there is no express attorney fee cap found in this section of the law. This likely explains why law firms are advertising everywhere possible to "assist" veterans with their Camp Lejeune claims.

Mr. Chairman, VVA supports modifying the language in this section of the law to fix the loopholes of the offset and include a cap on attorneys' legal fees. This modification will prevent veterans and their families from falling victim to predatory law firms, and it will protect them from losing their awards due to the offset and legal fees.

In closing, Vietnam Veterans of America stands ready and willing to aid in any way possible to make sure that our nation's Veterans have access to the best care available and that they receive their benefits earned because of their service to our nation. Again, while passage of the *PACT Act* is an important milestone, the demanding work of implementation will require extraordinary attention and oversight by Congress.

VIETNAM VETERANS OF AMERICA

Funding Statement

December 7, 2022

The national organization Vietnam Veterans of America (VVA) is a non-profit veterans' membership organization registered as a 501(c) (19) with the Internal Revenue Service. VVA is also appropriately registered with the Secretary of the Senate and the Clerk of the House of Representatives in compliance with the Lobbying Disclosure Act of 1995.

VVA is not currently in receipt of any federal grant or contract, other than the routine allocation of office space and associated resources in VA Regional Offices for outreach and direct services through its Veterans Benefits Program (Service Representatives). This is also true of the previous two fiscal years.

For further information, contact:

Director for Policy and Government Affairs
Vietnam Veterans of America
(301) 585-4000, extension 111

Jack McManus

Jack McManus was elected to serve as VVA National President at VVA's 20th National convention, held in November 2021, in Greensboro, North Carolina. First elected VVA national treasurer in 1995, he was re-elected to the position in 1997, and again in 2019. He previously served as the VVA Michigan State Council President for six and one-half years from 1989 to 1996, overseeing the largest state program in VVA. In 1997, he was awarded VVA's highest honor, the VVA Commendation Medal, for his extraordinary service to the organization, to all veterans, and to the community at large. The VVA New York State Council has also recognized him with its own Commendation Medal.

During his career as a private businessman, McManus's company employed approximately 3,500 in two service-sector businesses, with \$150 million annually in sales. In 1978, his company was recognized as the first drug-free workplace in the building service contracting industry. The company also emphasizes special hiring programs for handicapped individuals, ex-offenders, and rehabilitated substance abusers for its internal rehabilitation programs. From 1978 to 1985, McManus was the program manager for his company's contract with the Kennedy Space Center space shuttle program in Florida.

Originally, from New York City, Jack McManus joined the Air Force in 1965, where he served until 1969. Between 1967 and 1968, he was assigned to Operation Ranch Hand in Vietnam.

Jack received his B.A. in Business Management from New York University in 1973. He resides in North Carolina with his wife, Jackie. He is a recipient of numerous business and community awards.