



ISSUE BRIEF



PROTECTIONS FOR VETERANS EXPOSED TO OPEN AIR BURN PITS

Using burn pits to dispose of military waste is not a new phenomenon, but the scale and kind of use following U.S. invasions of Afghanistan and Iraq were perhaps unprecedented.¹ Large bases in Iraq and Afghanistan likely produced 60,000 to 85,000 pounds of solid waste per day.² For a time, open air burn pits were the primary waste disposal method, involving the burning of plastics, body parts, expired pharmaceutical drugs, chemicals from paint and solvents, unexploded ordinance, petroleum and according to some reports, nuclear and biological waste.³ In some cases, these pits were reportedly built on top of soil contaminated by chemical war agents.⁴

The burn pits, built and operated by the U.S. military as well as private contractors such as Kellogg Brown and Root, were in at least some cases positioned “so all smoke traveled downwind where soldiers were living...as close as one quarter of a mile.”⁵ Burn pit emissions contain “particulate matter, sulfur oxides, carbon monoxide, volatile organic compounds, and various irritant gases,” according to the American Lung Association.⁶ According to some sources, for vulnerable populations, “[e]ven short exposures can kill.”⁷ Inhalation of particulate matter air pollution can “lead to premature death from respiratory and cardiovascular causes, including strokes.”⁸ Burning materials that the military disposed of in the burn pits produces chemicals associated with immune dysfunction, IQ deficit, reproductive abnormalities, nose and throat cancer, liver and kidney disease and leukemia.⁹

Tens of thousands of veterans, active service members and civilians have served at military sites in Iraq and Afghanistan where waste was burned in open air pits, and they were continuously exposed to harmful emissions. More than 100,000 veterans have registered with the U.S. government as suffering from toxic exposures related to the burn pits.¹⁰ Many believe that the registry severely under-represents the number impacted, due to insufficient outreach to encourage awareness of and participation in the registry, as well as inability of registrants to report deaths by toxic exposures. The devastating health conditions suffered by veterans exposed to burn pits include neurological disorders, rare forms of cancer, reduced lung function and pulmonary diseases. Many veterans have been unable to get adequate medical treatment because the health impacts of the burn pits are not widely understood, and much remains unknown. Amnesty International is also deeply concerned about the long-term and devastating impact of these emissions on the health of Iraqis, Afghans and other local populations. Local populations living near U.S. military sites may have suffered lasting damage, reportedly including birth defects and neurological disorders in children.¹¹

This crisis implicates U.S. and international law. The National Defense Authorization Act of Fiscal Year 2010 (NDAA) directed the Department of Defense to: 1) end the use of burn pits except for narrow circumstances, 2) notify the Senate and House Armed Services Committees if it invokes an exception to continue operating a burn pit,¹² and 3) identify and track the exposures to toxic substances that result from the burn pits.¹³ Watchdog reports indicate, however, that the Department of Defense may be circumventing these requirements.¹⁴ International human rights law also obliges the U.S. government to protect the life and health of those exposed to burn pit emissions, including all individuals living on or near U.S. military sites.¹⁵

As the American Public Health Association emphasizes in its policy statement on burn pits: “[W]hile research regarding burn pits is being carried out, the current ‘uncertainty’ about health outcomes suggests...that the precautionary principle be applied.” It continues: “In this case, applying the precautionary principle would require the U.S. government to cease operating all burn pits still in use, enact remediation efforts in the areas affected, and take action to address health conditions.”¹⁶

AMNESTY INTERNATIONAL USA AND BURN PITS 360 RECOMMENDATIONS THAT MEMBERS OF CONGRESS:

- Publicly go on record drawing attention to the dangers that burn pits and toxic exposures pose to veterans.
- Urge the Armed Services and Veterans Affairs committees to hold public hearings to further investigate any ongoing use of burn pits and to hear testimony from impacted veterans.
- Support legislative efforts to ensure that affected veterans receive health care for their devastating conditions, and that surviving families of deceased veterans receive benefits.
- Ensure assistance and compensation are available to service members suffering health effects following exposure to open air burn pits, including, where appropriate, a service-connection presumption.

**For more information, please see Amnesty International USA’s
joint letter with Burn Pits 360 and Public Citizen to the Department of Defense:**

<http://bit.ly/2nPb7x2>

¹ We are not aware of a complete list of the number and location of burn pits, but according to the Department of Veterans Affairs, “[b]urn pits are located at every location wherein the military has positioned a forward operating base (FOB).” Department of Veterans Affairs, Training Letter 10-3: Environmental Hazards in Iraq, Afghanistan and Other Military Installations, 26 April 2010. Following the U.S. invasion in Iraq, as many as 250 burn pits were reportedly in operation. See Joseph Hickman, *The Burn Pits: The Poisoning of America’s Soldiers* (2015) at 23. The Institute of Medicine reported that 197 burn pits existed in Afghanistan in 2011, following restrictions put in place in 2009. Institute of Medicine for the Department of Veterans Affairs, “Long-Term Health Consequences of Exposure to Burn Pits in Iraq and Afghanistan,” online at <http://nationalacademies.org/hmd/Reports/2011/Long-Term-Health-Consequences-of-Exposure-to-Burn-Pits-in-Iraq-and-Afghanistan.aspx>.

² IOM Study at 16.

³ IOM Study at 17; Letter from Senator Tom Udall and Senator Bob Corker to Secretary of Defense Chuck Hagel, 18 July 2013 (on file with Amnesty International USA).

⁴ Joseph Hickman, “The Burn Pits: The Poisoning of America’s Soldiers” (2016) at 92.

⁵ Testimony of Rick Lamberth, former KBR employee, Senate Democratic Policy Committee hearing “Are Burn Pits In Iraq and Afghanistan Making Our Soldiers Sick?,” 6 November 2009, online at: <https://www.dpc.senate.gov/hearings/hearing50/transcript.pdf>.

⁶ Statement of the American Lung Association on Fiscal Year 2011 Appropriations for the Veteran Affairs Research Program before the House Appropriations Subcommittee on Military Construction, Veterans Affairs and Related Agencies, 23 March 2010, online at http://www.lung.org/assets/documents/advocacy_archive/testimony-before-the-house-2.pdf. See also Department of Veterans Affairs, Training Letter 10-3: Environmental Hazards in Iraq, Afghanistan and Other Military Installations, 26 April 2010.

⁷ Statement of the American Lung Association on Fiscal Year 2011 Appropriations for the Veteran Affairs Research Program before the House Appropriations Subcommittee on Military Construction, Veterans Affairs and Related Agencies, 23 March 2010, online at http://www.lung.org/assets/documents/advocacy_archive/testimony-before-the-house-2.pdf.

⁸ Testimony of Dr. Anthony Szema, Chief of the Allergy Section at Veterans Affairs Medical Center, Northport, New York, before Senate Democratic Policy Committee, “Are Burn Pits In Iraq and Afghanistan Making Our Soldiers Sick?,” 6 November 2009, online at: <https://www.dpc.senate.gov/hearings/hearing50/transcript.pdf>.

⁹ *Id.*

¹⁰ See Department of Veterans Affairs, “Airborne Hazards and Open Burn Pit Registry,” <https://veteran.mobilehealth.va.gov/AHBurnPitRegistry/#page/home> (last visited March 21, 2017).

¹¹ See M. Savabieasfahani et al., “Elevated titanium levels in Iraqi children with neurodevelopmental disorders echo findings in occupation soldiers,” 3 December 2014, Environmental Monitoring and Assessment, online at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4250563/pdf/10661_2014_Article_4127.pdf.

¹² Section 317 of National Defense Authorization Act of Fiscal Year 2010, Pub. L. 111-84, 122 Stat. 2249- 50.

¹³ *Id.* at sec. 317(b)(7); Department of Defense Instruction 4715.19, Use of Open-Air Burn Pits in Contingency Operations, Incorporating Change 3, online at <http://www.dtic.mil/whs/directives/corres/pdf/471519p.pdf>; U.S. Central Command, Regulation 200-2, “Environmental Quality: CENTCOM Contingency Environmental Guidance,” online at https://www.cemml.colostate.edu/cultural/09476/pdf/CENTCOM_ITTR_CCR_200-2-1.pdf.

¹⁴ See Government Accountability Office, “Waste Management: DOD Has Generally Addressed Legislative Requirements on the Use of Burn Pits but Needs to Fully Assess Health Effects,” 14, September 2016, online at: <http://www.gao.gov/products/GAO-16-781>; see also Office of the Special Inspector General for Afghanistan Reconstruction (SIGAR), “Final Assessment: What We Have Learned from Our Inspections of Incinerators and Use of Burn Pits in Afghanistan,” SIGAR 15-33-AL, at 9-11, Introduction Letter (February 2015), online at <https://www.sigar.mil/pdf/alerts/SIGAR-15-33-AL.pdf>; see also SIGAR, “Shindabad Airbase: Use of Open-Air Burn Pit Violated Department of Defense Requirements,” SIGAR 14-18 Inspection Report (July 2014), online at <https://www.sigar.mil/pdf/inspections/SIGAR-14-81-IP.pdf>.

¹⁵ The U.S. ratified the International Covenant on Civil Political Rights (ICCPR) in 1992. The ICCPR recognizes that every human being has an inherent right to life, including a right to be free from arbitrary deprivation of life. Toxic exposures and environmental contamination of food and water sources threaten the right to life. The human right to health is enshrined in numerous international and regional human rights instruments including the Universal Declaration of Human Rights. The International Covenant on Economic Social and Cultural Rights (ICESCR), which the U.S. signed in 1979, imposes on governments an obligation to ensure conditions for people to be as healthy as possible—including through preventive measures and access to timely health care. As a signatory to the ICESCR, the U.S. is obliged to refrain from actions that would defeat the object and purpose of the treaty.

¹⁶ As of February 2017, more than 101,000 veterans and service members have registered with the Veterans Administration Airborne Hazards and Open Burn Pit Registry to report health concerns and document their exposures. See Department of Veterans Affairs, “Airborne Hazards and Open Burn Pit Registry,” <https://veteran.mobilehealth.va.gov/AHBurnPitRegistry/#page/home> (last visited February 13, 2017). A June 2015 analysis of registry data provided by 27,378 participants found that 30 percent of participants reported being diagnosed with respiratory conditions; 40 percent with a cardiovascular condition, 6 percent with a form of cancer and 79 percent with neurological problems. However, the registry does not include reporting regarding veterans and service members who have already died, potentially including due to toxic exposures. See U.S. Department of Veterans Affairs, “Report on Data from the Airborne Hazards and Open Burn Pit Registry,” June 2015. See also Matthew S. King, M.D. et. al., “Constrictive Bronchiolitis in Soldiers Returning from Iraq and Afghanistan,” *The New England Journal of Medicine*, (July 21, 2011): 222; Anthony M. Szema, MD, FCCP, et. al., “Respiratory Symptoms Necessitating Spirometry Among Soldiers With Iraq/Afghanistan War Lung Injury,” *Journal of Occupational and Environmental Medicine*, September 2011, vol. 53, no. 9: 961.