

Q & A

1	What is garrison exposure?	Garrison exposures are environmental exposures that may have been experienced while stationed on a military base. See Garrison Exposures for additional information regarding PFAS, Camp Lejeune, potential garrison exposures, and exposures from specific garrisons
2	In the gastrointestinal cancer scenario, surviving spouse actually claimed herbicide exposure, and we had the death certificate with gastrointestinal cancer, how far do you chase the development?	In herbicide-related claims, if the claimed disability is not recognized as a presumptive condition under 38 CFR 3.309(e) , then the development activity must send the claimant a letter using the Veterans Benefits Management System (VBMS) development paragraph <i>AO-not a recognized condition</i> , requesting scientific or medical evidence showing that the claimed condition is medically associated with dioxin exposures. See M21-1 VIII.i.A.1.h for additional information. Also see answer 14 for additional AO development procedures.
3	Is VSR required to review 700 pages of medical/CAPRI docs to determine whether Vet was in an area of exposure?	It is difficult to respond to this question without information regarding what other records are available. Generally, a keyword search is suggested. The evidence will dictate the process, however, if service-connection for the cause of death is being claimed explicitly, or is being pursued implicitly, VA's duty to obtain and review federal records is procedurally obligated to the extent necessary.
4	What about asbestos for Navy Vets?	Clarification has been requested regarding when to concede asbestos exposure, specifically how it applies to survivor claims.
5	When we are stating lay evidence, how specific/ "relevant" does it have to be based on the Veteran of issue, i.e. often journal articles are not specific to Veteran's actual buddy/medical just nexus-- to continue with this we need medical opinion linking the 3rd party journal to the situation/diagnoses before moving forward vs just sending journal and spouse 4138 asserting link for opinion/use in TERA memo?	Per the court case Espiritu v. Derwinski , a layperson may <i>provide</i> competent evidence regarding symptoms, however, a lay opinion is not entitled to any weight when the determinative issue involves questions of medical causation and a medical diagnosis. Because journal articles generally do not speak to a specific Veteran's medical causation and/or medical diagnosis, and medical evidence of a link to a current condition is still needed to establish service-connection , any 3 rd party journal article would be submitted with the medical opinion request for consideration by medical personnel authoring the medical opinion (with all other evidence to be considered.) See M21-1 V.ii.1.B.2.a Acceptable Lay Evidence .
6	There is some confusion regarding saying yes or no to ILER. Some seem to think it just means did you attempt to pull it with no record found, and some would assume it	Documenting the use of ILER in the e-folder is required for TERA-related claims. Mandatory use of ILER applies to claims for service-connected death that involve TERA-related service-connected conditions or causes of death where:

Q & A

	<p>means did you actually find a record.</p>	<ul style="list-style-type: none"> • the evidence of record does not provide exposure-related verification, and • the benefit cannot otherwise be granted based on the evidence of record, and • non-service-connected death claims where a TERA medical opinion is needed. <p>Claims processors should download the complete ILER results to substantiate the claim and then upload these results to VBMS. See Appendix C for Job Aid on Uploading ILER Individual Exposure Summary for TERA-related claims. Follow the procedures outlined in the Toxic Exposure Risk Activity (TERA) Memorandum Job Aid when reviewing the Individual Exposure Summary. If a Veteran is not found in ILER, or the Individual Exposure Summary Information screen indicates the Veteran does not have an exposure record, capture a screenshot to document that there is no toxic-exposure related evidence in ILER and mark “No” on the TERA memo.</p>
7	<p>What is associable list and non-associable list?</p>	<p>The terms ‘associable list and non-associable list’ were used to refer to conditions determined by the Secretary to have a positive association with herbicide exposure, under 38 CFR 3.309(e) and those added by the PACT Act under 38 U.S.C. § 1116, and conditions that have no positive association to herbicide exposure, found in M21-1 Part VIII, Subpart I, 1.B.1.k. Additionally, conditions determined to have no positive association can be found on the TERA Exception Job Aid. A medical opinion should not be ordered based on a TERA if one of these conditions exists <i>unless</i> the claimant submits competent medical or scientific evidence of an association between the cause of death and the in-service TERA.</p>
8	<p>Is a TERA Memorandum needed to verify there was no other possible toxic exposures in the personnel records/STR prior to denying, since this is now considered an EP 140?</p>	<p>The EP procedure is currently under review and updated training will be provided when it is finalized.</p>
9	<p>Are we doing TERA Memo's on deaths that are non-presumptive death, and served during a PACT ACT time period?</p>	<p>The TERA memorandum is necessary when the cause of death cannot be granted on a presumptive basis and the disability does not meet a TERA exception. If the claimant is not claiming that the non-presumptive cause of death is related to the Veteran's participation in a TERA, then development for competent and credible lay evidence is not required. If the cause(s) of death is/are not presumptive, and evidence otherwise indicates reasonable probability of</p>

Q & A

		<p>service-connected death, development must be initiated for competent and credible lay or other evidence showing a reasonable association between the Veteran's cause(s) of death and event(s) in service. If evidence is received from the claimant, then TERA Memo procedures may be initiated. If no additional evidence is received, the claim should be forwarded for rating consideration. Claims processors are encouraged to communicate with RVSRs/QRT/Coach when reasonable association is unclear.</p>
10	<p>Can it be clarified at what stage PACT Special issue is added and then if/when removed?</p>	<p>Special issues must be applied upon claims establishment or when the claim is first determined to be a PACT Act-related claim.</p> <p>If at any time the evidence definitively rules out service-connected death, remove the special issue and process the non-service-connected death claim accordingly.</p>
11	<p>Further issue to consider when addressing the EP190 colorectal cancer scenario: the claimant DID assert AO, so would DEV be needed under the comment made near the end of the presentation about 5103 being applied only to the benefit checked?</p>	<p>It is unnecessary to issue § 5103 notice when a Veteran or survivor files a claim related to exposure to herbicides on a form that provides or otherwise indicates he/she received the notice, such as</p> <ul style="list-style-type: none"> • <i>VA Form 21-526EZ</i>, or • <i>VA Form 21P-534EZ, Application for DIC, Death Pension, and/or Accrued Benefits.</i> <p>Send a subsequent VBMS development letter using the <i>AO–Exposure General Notice</i> paragraph in the following situations:</p> <ul style="list-style-type: none"> • claimant fails to provide specifics of how or where exposure occurred, or • claimant states they served in a qualifying location, but fails to provide specific dates, and service records do not show service in a qualifying presumptive location. <p>Exceptions:</p> <ul style="list-style-type: none"> • If the claimant has already provided specific dates of TDY or other service in a presumptive herbicide location, do not send a subsequent development letter. • Certain claims for non-service-connected death pension may require additional 5103 development for competent and credible lay or other evidence showing a reasonable association between the

Q & A

		<p>Veteran's cause of death and event(s) in service when pursuing service-connected death further and the cause(s) of death is/are not presumptive.</p> <p>Reference: For more information about the circumstances under which it is necessary to issue § 5103 notice, see</p> <ul style="list-style-type: none"> • M21-1, Part III, Subpart i, 2.B, and M21-1, Part X, Subpart ii, 2.A.
12	<p>If TERA memo is not needed, does the exposure need to be annotated in the VBMS subject line note in accordance with the PACT Act?</p>	<p>To document herbicide exposure, the claims processor must ensure the evidence used to support the determination of herbicide exposure is uploaded to the Veteran's eFolder and edit the subject line of the relevant document(s) used to verify herbicide exposure using the following format: [location of exposure], pg. [number].</p> <p>To document exposure in a qualifying BPOT location by:</p> <ul style="list-style-type: none"> • Identifying relevant evidence in service records, including any contained in ILER, and ensuring the <i>Toxic Exposure – Sec. 1119 Covered Veteran flash is affixed to the Veteran's corporate record.</i>
13	<p>If they do a TERA that immediately allows a grant, do they still need to bother to upload the ILER because we're seeing and at our station we're not really requiring that.</p>	<p>Please see Memorandum "Guidance for using Individual Longitudinal Exposure Record (ILER)" when processing certain claims for service connection which states: "Mandatory use of ILER applies to claims for service-connected death that involve TERA-related service-connected conditions or causes of death where: the evidence of record does not provide exposure-related verification; and the benefit cannot otherwise be granted based on the evidence of record." If the benefit CAN otherwise be granted based on evidence of record, mandatory use of ILER does not apply.</p>
14	<p>In May, we received a TMS training that had five different scenarios and was regarding version three of the PACT Act SOP. Our office Milwaukee RVSRs received guidance that AO not recognized. Condition is no longer required under version three, but that we do need to send all exposure.</p>	<p>Claims adjudicators should utilize the language in VBMS for all PACT Act-related development action as it pertains to service-connected death.</p> <p>However, if VBMS development letters are not possible, and Modern Awards Processing – Development (MAP-D) must be utilized, claims processors should not include AO–not a recognized condition paragraph or the MAP-D AO – <i>SC Death, Nexus, Vietnam Service</i> paragraph simply because the conditions are not currently listed under § 3.309(e). VBA intends to publish updates to its regulations to add the new conditions to any applicable regulation (e.g., 38 CFR 3.309(e)).</p>

Q & A

		<p>Send a subsequent VBMS development letter using the <i>AO–Exposure General Notice</i> paragraph in the following situations:</p> <ul style="list-style-type: none"> claimant fails to provide specifics of how or where exposure occurred, or claimant states they served in a qualifying location, but fails to provide specific dates, and service records do not show service in a qualifying presumptive location.
15	<p>In the TERA tool when we get to the question about lay evidence or statements being on file to suggest DIC entitlement within the statement from the spouse regarding the veteran’s possible exposure in an herbicide location being connected to his colorectal cancer be taken as a lay statement since it would meet the definition of that.</p>	<p>Per the court case Espiritu v. Derwinski, a layperson may <i>provide</i> competent evidence regarding symptoms, however, a lay opinion is not entitled to any weight when the determinative issue involves questions of medical causation and a medical diagnosis.</p> <p>Medical evidence of a link to a current condition is still needed to establish service-connection. See M21-1 V.ii.1.B.2.a Acceptable Lay Evidence.</p>
16	<p>So as of this current training, if we can grant service-connected death under any alternative approach aside from solely toxic exposure, such as presumptives or direct service connection based on service-connected disabilities and death, then we do not need a TERA memo to document any other possible exposures unless there's any potential for other retroactive benefits.</p>	<p>If the Veteran’s cause of death is related to an alternate avenue of entitlement and served in a corresponding covered location (with all eligibility criteria met), service-connected death can be granted, and TERA procedures are not necessary. See Toxic Exposure Risk Activity (TERA) Memorandum Job Aid.</p>
17	<p>Please clarify whether or not we develop to the claimant for scientific evidence, whether they've raised presumption or not for non-presumptive condition.</p>	<p>If the claimant is not claiming that the non-presumptive cause of death is related to the Veteran's participation in a TERA, then development for scientific/lay evidence is not required. However, if the cause(s) of death is/are not presumptive, and evidence otherwise indicates reasonable probability of service-connected death, development must be initiated for competent and credible lay or other evidence showing a reasonable association between the Veteran's cause(s) of death and event(s) in service.</p>