

# Toxic Exposure Risk Activity (TERA) Memorandum

## Job Aid



### Purpose

This Job Aid summarizes how to determine when a *TERA Memorandum* is, and is not, necessary. It also provides the basic steps to follow and evidence to consider when completing the memorandum.



### Audience

Claims processors responsible for handling PACT Act-related claims for service connection and service-connected death.



### References

- *Public Law 117-168 — Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics Act of 2022 (PACT Act)*
- *38 U.S.C. § 1168 — Medical nexus examinations for toxic exposure risk activities*
- *M21-1 IV.i.2.A — Examination Requests Overview*
- *M21-1 VIII — Special Compensation Issues*
- *Compensation Service Intranet — PACT Act Information Page*
- *Pension and Fiduciary Service Intranet — P&FS PACT Act Information Page*
- *VBA Policy Letter*
- *PACT Act Implementation Standard Operating Procedure (SOP)*
- *Blue Water Navy (BWN) Centralized Processing SOP*
- *Individual Longitudinal Exposure Record (ILER) Guidance*

### Guidance

#### When the memorandum is necessary

- There is evidence of the claimed disability,
- the claimed issue is not a claim for increase,
- the claimed disability cannot be granted on a presumptive basis, **and**
- the disability does not meet a Section 1168 exception (listed on page 2).



#### Important —

- For non-presumptive PACT Act claims, part of VA's duty to assist Veterans in supporting their claims includes obtaining exams and opinions for conditions due to TERA participation when the evidence is insufficient to establish service connection for the claimed disability, even if the Veteran did not specifically claim it that way.
- A completed memorandum is required for service-connected death claims where one of the exceptions (listed on page 2) does not apply. If the memo indicates that the Veteran participated in a TERA during active military service and if criteria of [M21-1 XII.i.1.B.1.h](#) are met, a medical opinion will be required.

# Toxic Exposure Risk Activity (TERA) Memorandum Job Aid

## When the memorandum *is not* necessary

- The claim is for an increase in an already service-connected condition.
- One of the following Section 1168 exceptions applies —
  - The claimed disability is based on physical trauma. Three main types of physical trauma are blunt force trauma, trauma due to repetitive use, and penetrating trauma.
  - The claimed disability is a mental disorder. This would include any condition included in 38 C.F.R. § 4.130, the mental disorders section of the VA Schedule for Rating Disabilities.
  - The claimed disability is a condition determined to have no positive association with herbicide exposure (see *TERA Exception Job Aid* on [PACT Act Information Page](#)).
  - The claim is for a condition 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).
- Claims for service-connected death where
  - the benefit can be granted based on other evidence of record, or
  - one of the other exceptions described in this section applies.

## Completing the memorandum

The purpose of the memorandum is to establish documentation in the eFolder of whether the Veteran participated in a TERA. In a non-presumptive claim, if the Veteran participated in a TERA then an exam and medical opinion will be warranted. The memorandum shall provide examiners sufficient details about potential exposure(s) to facilitate a well-informed opinion.

Apply the following steps when completing the *TERA Memorandum* —

**Step 1** | Add the claimant's name, file number, and date into the corresponding text entry boxes. The date should reflect the date that the memorandum was completed.

**Step 2** | To answer Question 1 of the memorandum, first review the file for prior concessions of service in locations associated with toxic exposure. This information may be reflected on past rating decisions where

- service connection (SC) was established with a special issue indicator denoting toxic exposure attached to the SC disability on the code sheet, or
- SC was denied with favorable findings acknowledging the Veteran's service in locations where exposure to toxic substances is conceded.

# Toxic Exposure Risk Activity (TERA) Memorandum

## Job Aid

If past rating decisions concede exposure to one of the noted exposure types under Question 1 (e.g., herbicides), then answer *Yes* to Question 1, select the applicable box(es) for conceded exposure type, and provide evidence of exposure in the applicable text entry box. For examples, see the *TERA Memorandum Examples* that are hyperlinked on this Job Aid under Other Resources.

**Step 3** | Regardless of the results of the analysis in Step 2, you must also consider the Veteran's service records, including their DD Form 214 and service treatment records (STRs), to determine their circumstances of service and whether they served in a location where exposure to one of the noted exposure types in Question 1 is conceded. When and where did the Veteran serve? Were they deployed to a location where a presumption of exposure is conceded under 38 C.F.R. § 3.307?

If the evidence of record shows service in locations associated with any of the noted exposure types under Question 1, then answer *Yes* to Question 1, select the applicable box(es) for the conceded exposure type, and provide evidence of the exposure in the applicable text entry box. If the evidence of record fails to show service in locations associated with one of the noted exposure types, answer *No* to Question 1.

**Step 4** | To answer Question 2A, search for the Veteran in ILER. If there is no entry for them, answer *No* to Question 2A. If there is an ILER entry, answer *Yes* to Question 2A, upload the *Individual Exposure Summary* into VBMS (refer to *ILER Guidance* for instructions), and answer Question 2B as well.

Question 2B requires you to review the *Individual Exposure Summary* for evidence of exposure above permissible limits, specifically when a Registry or Industrial Hygiene tile header is displayed in red, as this means that an ILER entry exceeded the recommended exposure level. If the Veteran was exposed above permissible limits, answer *Yes* to Question 2B and bookmark the relevant evidence for the examiner per [M21-1 IV.i.2.A.8.d](#) and [M21-1 IV.i.2.A.7.d](#). If there is no exposure above permissible limits shown in the *Individual Exposure Summary*, answer *No* to Question 2B.

**Step 5** | To answer Question 3A, review the Veteran's eFolder to identify whether their record contains the *Persian Gulf War Service – Sec. 1117* flash and 1117 Memo. If it does, then answer *Yes* to Question 3A. If the flash and memo are not shown in VBMS, then answer *No* to Question 3A and review the Veteran's eFolder for evidence of service in a Section 1117 location. If there is evidence of service in a Section 1117 or 38 C.F.R. § 3.317(e)(2) location, then answer *Yes* to Question 3B and provide evidence of that service in the applicable text entry box. If there is no evidence of service in a qualifying location, then answer *No* to Question 3B.

**Step 6** | To answer Question 4A, review the Veteran's eFolder to identify whether their record contains the Toxic Exposure – Sec. 1119 Covered Veteran flash and

# Toxic Exposure Risk Activity (TERA) Memorandum

## Job Aid

1119 Memo. If it does, answer *Yes* to Question 4A. If the flash and memo are not shown in VBMS, then answer *No* to Question 4A and review the Veteran's eFolder for evidence of service in a Section 1119 or 38 C.F.R. § 3.320 location. If there is evidence of service in a qualifying location, then answer *Yes* to Question 4B and provide evidence of that service in the applicable text entry box. If there is no evidence of service in qualifying location, answer *No* to Question 4B.

**Step 7** | To answer Question 5A, review the eFolder for deployment related exposure consistent with the Veteran's circumstances of service. For guidance on making this determination, see [M21-1 VIII.iii.9.B.2](#) and PACT Act Implementation SOP content *Determining the Circumstances of the Veteran's Service Are Consistent with TERA*. In particular, deployment related exposure may be noted on Post-Deployment Health Assessments (and Reassessments) in the STRs, Toxic Exposure Screening (TES) results, CAPRI records, and lay statements.

If deployment related exposure is indicated, answer *Yes* to Question 5A and indicate under Question 5B where the deployment information exists in the eFolder (e.g., in ILER, VIS, personnel records). You are required to bookmark or annotate the relevant evidence for the examiner per [M21-1 IV.i.2.A.8.d](#). Refer to [M21-1 IV.i.2.A.7.d](#) for procedural guidance on how to identify the evidence in a medical opinion request.

**Step 8** | To answer Question 6, review the eFolder for non-deployment related exposure that is consistent with the Veteran's circumstances of service. For guidance on making this determination, refer to the references cited in Step 7.

If non-deployment related exposure is indicated and consistent with the circumstances of the Veteran's service, answer *Yes* to Question 6 and provide details about the exposure in the applicable text entry box. If non-deployment related exposure is not shown in the evidence of record, answer *No* to Question 6.

**Step 9** | For the Conclusion, answer *Yes* if the research revealed that the Veteran served in locations and/or performed duties consistent with TERA participation. If TERA participation is not shown, then answer *No*.

**Step 10** | Select the employee signature box to electronically sign and save the memorandum before uploading it into VBMS as directed by the PACT Act Implementation SOP.

---

### Other Resources

- Relevant TMS courses are listed on the PACT Act Information Page in the section titled *PACT Act Training and Quality*
- *TERA Memorandum Examples* — [Example One](#), [Example Two](#)

