Amendment by Pub. L. 98–223 effective Apr. 1, 1984, see section 107 of Pub. L. 98–223, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1982 AMENDMENTS

Amendments by section 102 of Pub. L. 97–306 effective Oct. 1, 1982, see section 108 of Pub. L. 97–306, set out as a note under section 1114 of this title.

Amendment by section 404(b) of Pub. L. 97–253 effective Oct. 1, 1982, see section 404(c) of Pub. L. 97–253, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–66 effective Oct. 1, 1981, see section 701(a) of Pub. L. 97–66, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–385 applicable only to payments for months beginning after Sept. 30, 1980, see section 601(a) of Pub. L. 96–385, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–128 effective Oct. 1, 1979, see section 601(a)(1) of Pub. L. 96–128, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–479 effective Oct. 1, 1978, see section 401(a) of Pub. L. 95–479, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–117 effective Oct. 1, 1977, see section 501 of Pub. L. 95–117, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–71 effective Aug. 1, 1975, see section 301 of Pub. L. 94–71, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–295 effective May 1, 1974, see section 401 of Pub. L. 93–295, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–328 effective first day of second calendar month which begins after June 30, 1972, see section 301(a) of Pub. L. 92–328, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–376 effective July 1, 1970, see section 9 of Pub. L. 91–376, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1965 AMENDMENTS

Amendment by Pub. L. 89–311 effective first day of second calendar month following Oct. 31, 1965, see section 9 of Pub. L. 89–311, set out as a note under section 1114 of this title.

Section 2 of Pub. L. 89–137 provided that: ''The foregoing provisions of this Act [amending this section and former section 1504 of this title] shall become effective on the first day of the second calendar month which begins following the date of enactment of this Act [Aug. 26, 1965].''

EFFECTIVE DATE OF 1960 AMENDMENT

Section 2 of Pub. L. 86–499 provided that: ''The amendments made by this Act [amending this section] shall take effect on the first day of the second calendar month which begins after the date of enactment of this Act [June 8, 1960].''

REPEAL

Section 405(c) of Pub. L. 97–253, cited as a credit to this section, was repealed by Pub. L. 97–306, §§107, 108, Oct. 14, 1982, 96 Stat. 1431, 1432, eff. Oct. 1, 1982.

SAVINGS PROVISION

Section 1(c) of Pub. L. 89–137 provided that: ''Any veteran-trainee receiving subsistence allowance on the date of the enactment of this Act [Aug. 26, 1965] while pursuing a course of vocational rehabilitation authorized by chapter 31 of title 38, United States Code [former section 1501 et seq. of this title], shall not have such allowance reduced by reason of the amendments contained in such Act [amending this section and former section 1504 of this title].''

DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

For increases in rates and limitations on Department of Veterans Affairs disability compensation and dependency and indemnity compensation, see notes set out under section 1114 of this title.

§ 1116. Presumptions of service connection for diseases associated with exposure to certain herbicide agents; presumption of exposure for veterans who served in the Republic of Vietnam

(a)(1) For the purposes of section 1110 of this title, and subject to section 1113 of this title—

(A) a disease specified in paragraph (2) of this subsection becoming manifest as specified in that paragraph in a veteran who, during active military, naval, or air service, served in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975; and

(B) each additional disease (if any) that (i) the Secretary determines in regulations prescribed under this section warrants a presumption of service-connection by reason of having positive association with exposure to an herbicide agent, and (ii) becomes manifest within the period (if any) prescribed in such regulations in a veteran who, during active military, naval, or air service, served in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975, and while so serving was exposed to that herbicide agent,

shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of evidence of such disease during the period of such service.

(2) The diseases referred to in paragraph (1)(A) of this subsection are the following:

(A) Non-Hodgkin's lymphoma becoming manifest to a degree of disability of 10 percent or more.

(B) Each soft-tissue sarcoma becoming manifest to a degree of disability of 10 percent or more other than osteosarcoma, chondrosarcoma, Kaposi's sarcoma, or mesothelioma.

(C) Chloracne or another acneform disease consistent with chloracne becoming manifest to a degree of disability of 10 percent or more within one year after the last date on which the veteran performed active military, naval,

or air service in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975.

(D) Hodgkin's disease becoming manifest to a degree of disability of 10 percent or more.

(E) Porphyria cutanea tarda becoming manifest to a degree of disability of 10 percent or more within a year after the last date on which the veteran performed active military, naval, or air service in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975.

(F) Respiratory cancers (cancer of the lung, bronchus, larynx, or trachea) becoming manifest to a degree of disability of 10 percent or more.

(G) Multiple myeloma becoming manifest to a degree of disability of 10 percent or more.

(H) Diabetes Mellitus (Type 2).

(3) For purposes of this section, the term ''herbicide agent'' means a chemical in an herbicide used in support of the United States and allied military operations in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975.

(b)(1) Whenever the Secretary determines, on the basis of sound medical and scientific evidence, that a positive association exists between (A) the exposure of humans to an herbicide agent, and (B) the occurrence of a disease in humans, the Secretary shall prescribe regulations providing that a presumption of service connection is warranted for that disease for the purposes of this section.

(2) In making determinations for the purpose of this subsection, the Secretary shall take into account (A) reports received by the Secretary from the National Academy of Sciences under section 3 of the Agent Orange Act of 1991, and (B) all other sound medical and scientific information and analyses available to the Secretary. In evaluating any study for the purpose of making such determinations, the Secretary shall take into consideration whether the results are statistically significant, are capable of replication, and withstand peer review.

(3) An association between the occurrence of a disease in humans and exposure to an herbicide agent shall be considered to be positive for the purposes of this section if the credible evidence for the association is equal to or outweighs the credible evidence against the association.

(c)(1)(A) Not later than 60 days after the date on which the Secretary receives a report from the National Academy of Sciences under section 3 of the Agent Orange Act of 1991, the Secretary shall determine whether a presumption of service connection is warranted for each disease covered by the report. If the Secretary determines that such a presumption is warranted, the Secretary, not later than 60 days after making the determination, shall issue proposed regulations setting forth the Secretary's determination.

(B) If the Secretary determines that a presumption of service connection is not warranted, the Secretary, not later than 60 days after making the determination, shall publish in the Federal Register a notice of that determination. The notice shall include an explanation of the scientific basis for that determination. If the disease already is included in regulations providing for a presumption of service connection, the Secretary, not later than 60 days after publication of the notice of a determination that the presumption is not warranted, shall issue proposed regulations removing the presumption for the disease.

(2) Not later than 90 days after the date on which the Secretary issues any proposed regulations under this subsection, the Secretary shall issue final regulations. Such regulations shall be effective on the date of issuance.

(d) Whenever a disease is removed from regulations prescribed under this section—

(1) a veteran who was awarded compensation for such disease on the basis of the presumption provided in subsection (a) before the effective date of the removal shall continue to be entitled to receive compensation on that basis; and

(2) a survivor of a veteran who was awarded dependency and indemnity compensation for the death of a veteran resulting from such disease on the basis of such presumption shall continue to be entitled to receive dependency and indemnity compensation on such basis.

(e) Subsections (b) through (d) shall cease to be effective on September 30, 2015.

(f) For purposes of establishing service connection for a disability or death resulting from exposure to a herbicide agent, including a presumption of service-connection under this section, a veteran who, during active military, naval, or air service, served in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975, shall be presumed to have been exposed during such service to an herbicide agent containing dioxin or 2,4-dichlorophenoxyacetic acid, and may be presumed to have been exposed during such service to any other chemical compound in an herbicide agent, unless there is affirmative evidence to establish that the veteran was not exposed to any such agent during that service.

(Added Pub. L. 102–4, § 2(a)(1), Feb. 6, 1991, 105 Stat. 11, § 316; renumbered § 1116 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–446, title V, § 505, title XII, § 1201(e)(6), Nov. 2, 1994, 108 Stat. 4664, 4685; Pub. L. 104–275, title V, § 505(b), Oct. 9, 1996, 110 Stat. 3342; Pub. L. 106–419, title IV, § 404(a)(1), Nov. 1, 2000, 114 Stat. 1864; Pub. L. 107–103, title II, § 201(a)(1)(A), (b)–(c)(2)(A), (d)(1), Dec. 27, 2001, 115 Stat. 987, 988.)

REFERENCES IN TEXT

Section 3 of the Agent Orange Act of 1991, referred to in subsecs. (b)(2) and (c)(1)(A), is section 3 of Pub. L. 102–4, which is set out below.

AMENDMENTS

2001—Pub. L. 107–103, § 201(c)(2)(A), amended section catchline generally. Prior to amendment, catchline read as follows: ''Presumptions of service connection for diseases associated with exposure to certain herbicide agents''.

Subsec. (a)(2)(F). Pub. L. 107–103, § 201(a)(1)(A), struck out ''within 30 years after the last date on which the veteran performed active military, naval, or air service in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975'' before period at end.

Subsec. (a)(2)(H). Pub. L. 107–103, § 201(b), added subpar. (H).

Subsec. (a)(3), (4). Pub. L. 107–103, § 201(c)(1)(B), redesignated par. (4) as (3). Former par. (3) redesignated as subsec. (f).

Subsec. (e). Pub. L. 107–103, § 201(d)(1), substituted ''on September 30, 2015'' for ''10 years after the first day of the fiscal year in which the National Academy of Sciences transmits to the Secretary the first report under section 3 of the Agent Orange Act of 1991''.

Subsec. (f). Pub. L. 107–103, § 201(c)(1)(A), (C), redesignated subsec. (a)(3) as (f), substituted ''For purposes of establishing service connection for a disability or death resulting from exposure to a herbicide agent, including a presumption of service-connection under this section, a veteran'' for ''For the purposes of this subsection, a veteran'', and struck out ''and has a disease referred to in paragraph (1)(B) of this subsection'' after ''May 7, 1975,''.

2000—Subsec. (a)(2)(F). Pub. L. 106–419 inserted ''of disability'' after ''to a degree''.

1996—Subsec. (a)(1)(A). Pub. L. 104–275, § 505(b)(2), substituted ''during the period beginning on January 9, 1962, and ending on May 7, 1975'' for ''during the Vietnam era''.

Subsec. (a)(1)(B). Pub. L. 104–275, § 505(b)(1), substituted ''during the period beginning on January 9, 1962, and ending on May 7, 1975,'' for ''during the Vietnam era''.

Subsec. (a)(2)(C), (E), (F). Pub. L. 104–275, § 505(b)(2), substituted ''during the period beginning on January 9, 1962, and ending on May 7, 1975'' for ''during the Vietnam era''.

Subsec. (a)(3). Pub. L. 104–275, § 505(b)(1), substituted ''during the period beginning on January 9, 1962, and ending on May 7, 1975,'' for ''during the Vietnam era''.

Subsec. (a)(4). Pub. L. 104–275, § 505(b)(2), substituted ''during the period beginning on January 9, 1962, and ending on May 7, 1975'' for ''during the Vietnam era''.

1994—Subsec. (a)(1)(B). Pub. L. 103–446, § 1201(e)(6), substituted ''(i)'' for ''(1)'' and ''(ii)'' for ''(2)''.

Subsec. (a)(2)(D) to (G). Pub. L. 103–446, § 505, added subpars. (D) to (G).

1991—Pub. L. 102–83, § 5(a), renumbered section 316 of this title as this section.

Subsec. (a)(1). Pub. L. 102–83, § 5(c)(1), substituted ''1110'' for ''310'' and ''1113'' for ''313'' in introductory provisions.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–103, title II, § 201(a)(1)(B), Dec. 27, 2001, 115 Stat. 987, provided that: ''The amendment made by subparagraph (A) [amending this section] shall take effect January 1, 2002.''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–275 effective Jan. 1, 1997, with no benefit to be paid or provided by reason of such amendment for any period before such date, see section 505(d) of Pub. L. 104–275, set out as a note under section 101 of this title.

REPORT ON TIME LIMIT FOR PRESUMPTION OF CANCER CAUSED BY HERBICIDE AGENT

Pub. L. 107–103, title II, § 201(a)(2)–(4), Dec. 27, 2001, 115 Stat. 987, provided that:

''(2) The Secretary of Veterans Affairs shall enter into a contract with the National Academy of Sciences, not later than six months after the date of the enactment of this Act [Dec. 27, 2001], for the performance of a study to include a review of all available scientific literature on the effects of exposure to an herbicide agent containing dioxin on the development of respiratory cancers in humans and whether it is possible to identify a period of time after exposure to herbicides after which a presumption of service-connection for such exposure would not be warranted. Under the contract, the National Academy of Sciences shall submit a report to the Secretary setting forth its conclusions. The report shall be submitted not later than 18 months after the contract is entered into.

''(3) For a period of six months beginning on the date of the receipt of the report of the National Academy of Sciences under paragraph (2), the Secretary may, if warranted by clear scientific evidence presented in the National Academy of Sciences report, initiate a rulemaking under which the Secretary would specify a limit on the number of years after a claimant's departure from Vietnam after which respiratory cancers would not be presumed to have been associated with the claimant's exposure to herbicides while serving in Vietnam. Any such limit under such a rule may not take effect until 120 days have passed after the publication of a final rule to impose such a limit.

''(4)(A) Subject to subparagraphs (B) and (C), if the Secretary imposes such a limit under paragraph (3), that limit shall be effective only as to claims filed on or after the effective date of that limit.

''(B) In the case of any veteran whose disability or death due to respiratory cancer is found by the Secretary to be service-connected under section 1116(a)(2)(F) of title 38, United States Code, as amended by paragraph (1), such disability or death shall remain service-connected for purposes of all provisions of law under such title notwithstanding the imposition, if any, of a time limit by the Secretary by rulemaking authorized under paragraph (3).

''(C) Subaragraph [sic] (B) does not apply in a case in which—

''(i) the original award of compensation or service connection was based on fraud; or

''(ii) it is clearly shown from military records that the person concerned did not have the requisite service or character of discharge.''

AGREEMENT WITH NATIONAL ACADEMY OF SCIENCES

Section 3 of Pub. L. 102–4, as amended by Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–86, title V, § 503(a), (b)(1), Aug. 14, 1991, 105 Stat. 424, 425; Pub. L. 107–103, title II, § 201(d)(2), Dec. 27, 2001, 115 Stat. 988, provided that:

''(a) PURPOSE.—The purpose of this section is to provide for the National Academy of Sciences, an independent nonprofit scientific organization with appropriate expertise which is not part of the Federal Government, to review and evaluate the available scientific evidence regarding associations between diseases and exposure to dioxin and other chemical compounds in herbicides.

''(b) AGREEMENT.—The Secretary shall seek to enter into an agreement with the National Academy of Sciences for the Academy to perform the services covered by this section. The Secretary shall seek to enter into such agreement not later than two months after the date of the enactment of the Veterans' Benefits Programs Improvement Act of 1991 [Aug. 14, 1991].

''(c) REVIEW OF SCIENTIFIC EVIDENCE.—Under an agreement between the Secretary and the National Academy of Sciences under this section, the Academy shall review and summarize the scientific evidence, and assess the strength thereof, concerning the association between exposure to an herbicide used in support of the United States and allied military operations in the Republic of Vietnam during the Vietnam era and each disease suspected to be associated with such exposure.

''(d) SCIENTIFIC DETERMINATIONS CONCERNING DISEASES.—(1) For each disease reviewed, the Academy shall determine (to the extent that available scientific data permit meaningful determinations)—

''(A) whether a statistical association with herbicide exposure exists, taking into account the strength of the scientific evidence and the appropriateness of the statistical and epidemiological methods used to detect the association;

''(B) the increased risk of the disease among those exposed to herbicides during service in the Republic of Vietnam during the Vietnam era; and

''(C) whether there exists a plausible biological mechanism or other evidence of a causal relationship between herbicide exposure and the disease.

''(2) The Academy shall include in its reports under subsection (g) a full discussion of the scientific evi-

dence and reasoning that led to its conclusions under this subsection.

''(e) RECOMMENDATIONS FOR ADDITIONAL SCIENTIFIC STUDIES.—The Academy shall make any recommendations it has for additional scientific studies to resolve areas of continuing scientific uncertainty relating to herbicide exposure. In making recommendations for further study, the Academy shall consider the scientific information that is currently available, the value and relevance of the information that could result from additional studies, and the cost and feasibility of carrying out such additional studies.

''(f) SUBSEQUENT REVIEWS.—An agreement under subsection (b) shall require the National Academy of Sciences—

''(1) to conduct as comprehensive a review as is practicable of the evidence referred to in subsection (c) that became available since the last review of such evidence under this section; and

''(2) to make its determinations and estimates on the basis of the results of such review and all other reviews conducted for the purposes of this section.

''(g) REPORTS.—(1) The agreement between the Secretary and the National Academy of Sciences shall require the Academy to transmit to the Secretary and the Committees on Veterans' Affairs of the Senate and House of Representatives periodic written reports regarding the Academy's activities under the agreement. Such reports shall be submitted at least once every two years (as measured from the date of the first report).

''(2) The first report under this subsection shall be transmitted not later than the end of the 18-month period beginning on the date of the enactment of this Act [Feb. 6, 1991]. That report shall include (A) the determinations and discussion referred to in subsection (d), (B) any recommendations of the Academy under subsection (e), and (C) the recommendation of the Academy as to whether the provisions of each of sections 6 through 9 [set out below] should be implemented by the Secretary. In making its recommendation with respect to each such section, the Academy shall consider the scientific information that is currently available, the value and relevance of the information that could result from implementing that section, and the cost and feasibility of implementing that section. If the Academy recommends that the provisions of section 6 should be implemented, the Academy shall also recommend the means by which clinical data referred to in that section could be maintained in the most scientifically useful way.

''(h) LIMITATION ON AUTHORITY.—The authority to enter into agreements under this section shall be effective for a fiscal year to the extent that appropriations are available.

''(i) SUNSET.—This section shall cease to be effective on October 1, 2014.

''(j) ALTERNATIVE CONTRACT SCIENTIFIC ORGANIZATION.—If the Secretary is unable within the time period prescribed in subsection (b) to enter into an agreement with the National Academy of Sciences for the purposes of this section on terms acceptable to the Secretary, the Secretary shall seek to enter into an agreement for the purposes of this section with another appropriate scientific organization that is not part of the Government and operates as a not-for-profit entity and that has expertise and objectivity comparable to that of the National Academy of Sciences. If the Secretary enters into such an agreement with another organization, then any reference in this section and in section 1116 [formerly 316] of title 38, United States Code (as added by section 2), to the National Academy of Sciences shall be treated as a reference to the other organization.

''(k) LIABILITY INSURANCE.—(1) The Secretary may provide liability insurance for the National Academy of Sciences or any other contract scientific organization to cover any claim for money damages for injury, loss of property, personal injury, or death caused by any negligent or wrongful act or omission of any person referred to in paragraph (2) in carrying out any of the following responsibilities of the Academy or such other organization, as the case may be, under an agreement entered into with the Secretary pursuant to this section:

''(A) The review, summarization, and assessment of scientific evidence referred to in subsection (c).

''(B) The making of any determination, on the basis of such review and assessment, regarding the matters set out in clauses (A) through (C) of subsection (d)(1), and the preparation of the discussion referred to in subsection (d)(2).

''(C) The making of any recommendation for additional scientific study under subsection (e).

''(D) The conduct of any subsequent review referred to in subsection (f) and the making of any determination or estimate referred to in such subsection.

''(E) The preparation of the reports referred to in subsection (g).

''(2) A person referred to in paragraph (1) is—

''(A) an employee of the National Academy of Sciences or other contract scientific organization referred to in paragraph (1); or

''(B) any individual appointed by the President of the Academy or the head of such other contract scientific organization, as the case may be, to carry out any of the responsibilities referred to in such paragraph.

''(3) The cost of the liability insurance referred to in paragraph (1) shall be made from funds available to carry out this section.

''(4) The Secretary shall reimburse the Academy or person referred to in paragraph (2) for the cost of any judgments (if any) and reasonable attorney's fees and incidental expenses, not compensated by the liability insurance referred to in paragraph (1) or by any other insurance maintained by the Academy, incurred by the Academy or person referred to in paragraph (2), in connection with any legal or administrative proceedings arising out of or in connection with the work to be performed under the agreement referred to in paragraph (1). Reimbursement of the cost of such judgments, attorney's fees, and incidental expenses shall be paid from funds appropriated for such reimbursement or appropriated to carry out this section, but in no event shall any such reimbursement be made from funds authorized pursuant to section 1304 of title 31, United States Code.''

RESULTS OF EXAMINATIONS AND TREATMENT OF VETERANS FOR DISABILITIES RELATED TO EXPOSURE TO CERTAIN HERBICIDES OR TO SERVICE IN VIETNAM

Section 6 of Pub. L. 102–4, as amended by Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406, provided that:

''(a) IN GENERAL.—Subject to subsections (d) and (e), the Secretary of Veterans Affairs shall compile and analyze, on a continuing basis, all clinical data that (1) is obtained by the Department of Veterans Affairs in connection with examinations and treatment furnished to veterans by the Department after November 3, 1981, by reason of eligibility provided in section 1710(e)(1)(A) of title 38, United States Code, and (2) is likely to be scientifically useful in determining the association, if any, between the disabilities of veterans referred to in such section and exposure to dioxin or any other toxic substance referred to in such section or between such disabilities and active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

''(b) ANNUAL REPORT.—The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives an annual report containing—

''(1) the information compiled in accordance with subsection (a);

''(2) the Secretary's analysis of such information;

''(3) a discussion of the types and incidences of disabilities identified by the Department of Veterans Affairs in the case of veterans referred to in subsection (a);

''(4) the Secretary's explanation for the incidence of such disabilities;

''(5) other explanations for the incidence of such disabilities considered reasonable by the Secretary; and

''(6) the Secretary's views on the scientific validity of drawing conclusions from the incidence of such disabilities, as evidenced by the data compiled under subsection (a), about any association between such disabilities and exposure to dioxin or any other toxic substance referred to in section 1710(e)(1)(A) of title 38, United States Code, or between such disabilities and active military, naval, or air service, in the Republic of Vietnam during the Vietnam era.

''(c) FIRST REPORT.—The first report under subsection (b) shall be submitted not later than one year after the effective date of this section [see subsec. (e) of this section].

''(d) FUNDING.—The authority of the Secretary to carry out this section is effective in any fiscal year only to the extent or in the amount specifically provided in statutory language in appropriations Acts.

''(e) EFFECTIVE DATE.—(1) This section shall take effect at the end of the 90-day period beginning on the date on which the first report of the National Academy of Sciences under section 3(g) [set out above] is received by the Secretary, except that this section shall not take effect if the Secretary, after receiving that report and before the end of that 90-day period—

''(A) determines that it is not feasible or cost-effective to carry out this section or that carrying out this section would not make a material contribution to the body of scientific knowledge concerning the health effects in humans of herbicide exposure; and

''(B) notifies the Committees on Veterans' Affairs of the Senate and House of Representatives of the Secretary's determination and the reasons therefor.

''(2) In making a determination under this subsection, the Secretary shall give great weight to the views and recommendations of the Academy expressed in that report with respect to the implementation of this section.''

TISSUE ARCHIVING SYSTEM

Section 7 of Pub. L. 102–4 provided that:

''(a) ESTABLISHMENT OF SYSTEM.—Subject to subsections (e) and (f), for the purpose of facilitating future scientific research on the effects of exposure of veterans to dioxin and other toxic agents in herbicides used in support of United States and allied military operations in the Republic of Vietnam during the Vietnam era, the Secretary of Veterans Affairs shall establish and maintain a system for the collection and storage of voluntarily contributed samples of blood and tissue of veterans who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

''(b) SECURITY OF SPECIMENS.—The Secretary shall ensure that the tissue is collected and stored under physically secure conditions and that the tissue is maintained in a condition that is useful for research referred to in subsection (a).

''(c) AUTHORIZED USE OF SPECIMENS.—The Secretary may make blood and tissue available from the system for research referred to in subsection (a). The Secretary shall carry out this section in a manner consistent with the privacy rights and interests of the blood and tissue donors.

''(d) LIMITATIONS ON ACCEPTANCE OF SAMPLES.—The Secretary may prescribe such limitations on the acceptance and storage of blood and tissue samples as the Secretary considers appropriate consistent with the purpose specified in subsection (a).

''(e) FUNDING.—The authority of the Secretary to carry out this section is effective in any fiscal year only to the extent or in the amount specifically provided in statutory language in appropriations Acts.

''(f) EFFECTIVE DATE.—(1) This section shall take effect at the end of the 90-day period beginning on the date on which the first report of the National Academy of Sciences under section 3(g) [set out above] is received by the Secretary, except that this section shall not take effect if the Secretary, after receiving that report and before the end of that 90-day period—

''(A) determines that it is not feasible or cost-effective to carry out this section or that carrying out this section would not make a material contribution to the body of scientific knowledge concerning the health effects in humans of herbicide exposure; and

''(B) notifies the Committees on Veterans' Affairs of the Senate and House of Representatives of the Secretary's determination and the reasons therefor.

''(2) In making a determination under this subsection, the Secretary shall give great weight to the views and recommendations of the Academy expressed in that report with respect to the implementation of this section.''

SCIENTIFIC RESEARCH FEASIBILITY STUDIES PROGRAM

Section 8 of Pub. L. 102–4 provided that:

''(a) ESTABLISHMENT OF PROGRAM.—Subject to subsections (e) and (f), the Secretary of Veterans Affairs shall establish a program to provide for the conduct of studies of the feasibility of conducting additional scientific research on—

''(1) health hazards resulting from exposure to dioxin;

''(2) health hazards resulting from exposure to other toxic agents in herbicides used in support of United States and allied military operations in the Republic of Vietnam during the Vietnam era; and

''(3) health hazards resulting from active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

''(b) PROGRAM REQUIREMENTS.—(1) Under the program established pursuant to subsection (a), the Secretary shall, pursuant to criteria prescribed pursuant to paragraph (2), award contracts or furnish financial assistance to non-Government entities for the conduct of studies referred to in subsection (a).

''(2) The Secretary shall prescribe criteria for (A) the selection of entities to be awarded contracts or to receive financial assistance under the program, and (B) the approval of studies to be conducted under such contracts or with such financial assistance.

''(c) REPORT.—The Secretary shall promptly report the results of studies conducted under the program to the Committees on Veterans' Affairs of the Senate and the House of Representatives.

''(d) CONSULTATION WITH THE NATIONAL ACADEMY OF SCIENCES.—(1) To the extent provided under any agreement entered into by the Secretary and the National Academy of Sciences under this Act [Pub. L. 102–4, see Short Title of 1991 Amendments note under section 101 of this title]—

''(A) the Secretary shall consult with the Academy regarding the establishment and administration of the program under subsection (a); and

''(B) the Academy shall review the studies conducted under contracts awarded pursuant to the program and the studies conducted with financial assistance furnished pursuant to the program.

''(2) The agreement shall require the Academy to submit to the Secretary and the Committees on Veterans' Affairs of the Senate and the House of Representatives any recommendations that the Academy considers appropriate regarding any studies reviewed under the agreement.

''(e) FUNDING.—The authority of the Secretary to carry out this section is effective in any fiscal year only to the extent or in the amount specifically provided in statutory language in appropriations Acts.

''(f) EFFECTIVE DATE.—(1) This section shall take effect at the end of the 90-day period beginning on the date on which the first report of the National Academy of Sciences under section 3(g) [set out above] is received by the Secretary, except that this section shall not take effect if the Secretary, after receiving that report and before the end of that 90-day period—

''(A) determines that it is not feasible or cost-effective to carry out this section or that carrying out this section would not make a material contribution

to the body of scientific knowledge concerning the health effects in humans of herbicide exposure; and

''(B) notifies the Committees on Veterans' Affairs of the Senate and House of Representatives of the Secretary's determination and the reasons therefor.

''(2) In making a determination under this subsection, the Secretary shall give great weight to the views and recommendations of the Academy expressed in that report with respect to the implementation of this section.''

BLOOD TESTING OF CERTAIN VIETNAM-ERA VETERANS

Section 9 of Pub. L. 102–4, as amended by Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406, provided that:

''(a) BLOOD TESTING.—Subject to subsections (d) and (e), in the case of a veteran described in section 1710(e)(1)(A) of title 38, United States Code, who—

''(1) has applied for medical care from the Department of Veterans Affairs; or

''(2) has filed a claim for, or is in receipt of disability compensation under chapter 11 of title 38, United States Code,

the Secretary of Veterans Affairs shall, upon the veteran's request, obtain a sufficient amount of blood serum from the veteran to enable the Secretary to conduct a test of the serum to ascertain the level of 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) which may be present in the veteran's body.

''(b) NOTIFICATION OF TEST RESULTS.—Upon completion of such test, the Secretary shall notify the veteran of the test results and provide the veteran a complete explanation as to what, if anything, the results of the test indicate regarding the likelihood of the veteran's exposure to TCDD while serving in the Republic of Vietnam.

''(c) INCORPORATION IN SYSTEM.—The Secretary shall maintain the veteran's blood sample and the results of the test as part of the system required by section 7 [set out above].

''(d) FUNDING.—The authority of the Secretary to carry out this section is effective in any fiscal year only to the extent or in the amount specifically provided in statutory language in appropriations Acts, but such amount shall not exceed $4,000,000 in any fiscal year.

''(e) EFFECTIVE DATE.—(1) This section shall take effect at the end of the 90-day period beginning on the date on which the first report of the National Academy of Sciences under section 3(g) [set out above] is received by the Secretary, except that this section shall not take effect if the Secretary, after receiving that report and before the end of that 90-day period—

''(A) determines that it is not feasible or cost-effective to carry out this section or that carrying out this section would not make a material contribution to the body of scientific knowledge concerning the health effects in humans of herbicide exposure; and

''(B) notifies the Committees on Veterans' Affairs of the Senate and House of Representatives of the Secretary's determination and the reasons therefor.

''(2) In making a determination under this subsection, the Secretary shall give great weight to the views and recommendations of the Academy expressed in that report with respect to the implementation of this section.''

STUDY OF EFFECT OF VIETNAM EXPERIENCE ON HEALTH STATUS OF WOMEN VIETNAM VETERANS

Pub. L. 99–272, title XIX, § 19031, Apr. 7, 1986, 100 Stat. 385, provided that:

''(a) REQUIREMENT FOR EPIDEMIOLOGICAL STUDY.—(1)(A) Except as provided in paragraph (2), the Administrator of Veterans' Affairs shall provide for the conduct of an epidemiological study of any long-term adverse health effects (particularly gender-specific health effects) which have been experienced by women who served in the Armed Forces of the United States in the Republic of Vietnam during the Vietnam era and which may have resulted from traumatic experiences during such service, from exposure during such service to phenoxy herbicides (including the herbicide known as Agent Orange), to other herbicides, chemicals, or medications that may have deleterious health effects, or to environmental hazards, or from any other experience or exposure during such service.

''(B) The Administrator may include in the study conducted under this paragraph an evaluation of the means of detecting and treating long-term adverse health effects (particularly gender-specific health effects) found through the study.

''(2)(A) If the Administrator, in consultation with the Director of the Office of Technology Assessment, determines that it is not feasible to conduct a scientifically valid study of an aspect of the matters described in paragraph (1)—

''(i) the Administrator shall promptly submit to the appropriate committees of the Congress a notice of that determination and the reasons for the determination; and

''(ii) the Director, not later than 60 days after the date on which such notice is submitted to the committees, shall submit to such committees a report evaluating and commenting on such determination.

''(B) The Administrator is not required to study any aspect of the matters described in paragraph (1) with respect to which a determination is made and a notice is submitted pursuant to subparagraph (A)(i).

''(C) If the Administrator submits to the Congress notice of a determination made pursuant to subparagraph (A) that it is not scientifically feasible to conduct the study described in paragraph (1)(A), this section (effective as of the date of such notice) shall cease to have effect as if repealed by law.

''(3) The Administrator shall provide for the study to be conducted through contracts or other agreements with private or public agencies or persons.

''(b) APPROVAL OF PROTOCOL.—(1) The study required by subsection (a) shall be conducted in accordance with a protocol approved by the Director of the Office of Technology Assessment.

''(2) Not later than July 1, 1986, the Administrator shall publish a request for proposals for the design of the protocol to be used in conducting the study under this section.

''(3) In considering any proposed protocol for use or approval under this subsection, the Administrator and the Director shall take into consideration—

''(A) the protocol approved under section 307(a)(2)(A)(i) of the Veterans Health Programs Extension and Improvement Act of 1979 (Public Law 96–151; 38 U.S.C. 219 note [1116 note]); and

''(B) the experience under the study being conducted pursuant to that protocol.

''(c) OTA REPORTS.—(1) Concurrent with the approval or disapproval of any protocol under subsection (b)(1), the Director shall submit to the appropriate committees of the Congress a report—

''(A) explaining the reasons for the Director's approval or disapproval of the protocol, as the case may be; and

''(B) containing the Director's conclusions regarding the scientific validity and objectivity of the protocol.

''(2) If the Director has not approved a protocol under subsection (b)(1) by the last day of the 180-day period beginning on the date of the enactment of this Act [Apr. 7, 1986], the Director—

''(A) shall, on such day, submit to the appropriate committees of the Congress a report describing the reasons why the Director has not approved such a protocol; and

''(B) shall, each 60 days thereafter until such a protocol is approved, submit to such committees an updated report on the report required by clause (A).

''(d) OTA MONITORING OF COMPLIANCE.—(1) In order to ensure compliance with the protocol approved under subsection (b)(1), the Director shall monitor the conduct of the study under subsection (a).

''(2)(A) The Director shall submit to the appropriate committees of the Congress, at each of the times speci-

fied in subparagraph (B), a report on the Director's monitoring of the conduct of the study pursuant to paragraph (1).

''(B) A report shall be submitted under subparagraph (A)—

''(i) before the end of the 6-month period beginning on the date on which the Director approves the protocol referred to in paragraph (1);

''(ii) before the end of the 12-month period beginning on such date; and

''(iii) annually thereafter until the study is completed or terminated.

''(e) DURATION OF STUDY.—The study conducted pursuant to subsection (a) shall be continued for as long after the date on which the first report is submitted under subsection (f)(1) as the Administrator determines that there is a reasonable possibility of developing, through such study, significant new information on the health effects described in subsection (a)(1).

''(f) REPORTS.—(1) Not later than 24 months after the date of the approval of the protocol pursuant to subsection (b)(1) and annually thereafter, the Administrator shall submit to the appropriate committees of the Congress a report containing—

''(A) a description of the results obtained, before the date of such report, under the study conducted pursuant to subsection (a); and

''(B) any administrative actions or recommended legislation, or both, and any additional comments which the Administrator considers appropriate in light of such results.

''(2) Not later than 90 days after the date on which each report required by paragraph (1) is submitted, the Administrator shall publish in the Federal Register, for public review and comment, a description of any action that the Administrator plans or proposes to take with respect to programs administered by the Veterans' Administration based on—

''(A) the results described in such report;

''(B) the comments and recommendations received on that report; and

''(C) any other available pertinent information.

Each such description shall include a justification or rationale for the planned or proposed action.

''(g) DEFINITIONS.—For the purposes of this section:

''(1) The term 'gender-specific health effects' includes—

''(A) effects on female reproductive capacity and reproductive organs;

''(B) effects on reproductive outcomes;

''(C) effects on female-specific organs and tissues; and

''(D) other effects unique to the physiology of females.

''(2) The term 'Vietnam era' has the meaning given such term in section 101(29) of title 38, United States Code.''

AGENT ORANGE STUDY; REPORT TO CONGRESSIONAL COMMITTEES

Pub. L. 96–151, title III, § 307, Dec. 20, 1979, 93 Stat. 1097, as amended by Pub. L. 97–72, title IV, § 401, Nov. 3, 1981, 95 Stat. 1061; Pub. L. 98–542, § 8(a), Oct. 24, 1984, 98 Stat. 2731, directed that a protocol be designed for an epidemiological study of the long-term health effects of Agent Orange on Armed Forces personnel who served in Vietnam, and that reports be submitted to Congress describing results with comments and recommendations.

§ 1117. Compensation for disabilities occurring in Persian Gulf War veterans

(a)(1) The Secretary may pay compensation under this subchapter to a Persian Gulf veteran with a qualifying chronic disability that became manifest—

(A) during service on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War; or

(B) to a degree of 10 percent or more during the presumptive period prescribed under subsection (b).

(2) For purposes of this subsection, the term ''qualifying chronic disability'' means a chronic disability resulting from any of the following (or any combination of any of the following):

(A) An undiagnosed illness.

(B) A medically unexplained chronic multisymptom illness (such as chronic fatigue syndrome, fibromyalgia, and irritable bowel syndrome) that is defined by a cluster of signs or symptoms.

(C) Any diagnosed illness that the Secretary determines in regulations prescribed under subsection (d) warrants a presumption of service-connection.

(b) The Secretary shall prescribe by regulation the period of time following service in the Southwest Asia theater of operations during the Persian Gulf War that the Secretary determines is appropriate for presumption of service connection for purposes of this section. The Secretary's determination of such period of time shall be made following a review of any available credible medical or scientific evidence and the historical treatment afforded disabilities for which manifestation periods have been established and shall take into account other pertinent circumstances regarding the experiences of veterans of the Persian Gulf War.

(c)(1) Whenever the Secretary determines under section 1118(c) of this title that a presumption of service connection previously established under this section is no longer warranted—

(A) a veteran who was awarded compensation under this section on the basis of the presumption shall continue to be entitled to receive compensation under this section on that basis; and

(B) a survivor of a veteran who was awarded dependency and indemnity compensation for the death of a veteran resulting from the disease on the basis of the presumption before that date shall continue to be entitled to receive dependency and indemnity compensation on that basis.

(2) This subsection shall cease to be effective on September 30, 2011.

(d)(1) The Secretary shall prescribe regulations to carry out this section.

(2) Those regulations shall include the following:

(A) A description of the period and geographical area or areas of military service in connection with which compensation under this section may be paid.

(B) A description of the illnesses for which compensation under this section may be paid.

(C) A description of any relevant medical characteristic (such as a latency period) associated with each such illness.

(e) A disability for which compensation under this subchapter is payable shall be considered to be service connected for purposes of all other laws of the United States.

(f) For purposes of this section, the term ''Persian Gulf veteran'' means a veteran who served