

Gulf War Veterans' Illnesses, was revoked by Ex. Ord. No. 13138, §3(g), Sept. 30, 1999, 64 F.R. 53880, formerly set out as a note under section 14 of the Appendix to Title 5, Government Organization and Employees.

EX. ORD. NO. 13034. EXTENSION OF PRESIDENTIAL ADVISORY COMMITTEE ON GULF WAR VETERANS' ILLNESSES

Ex. Ord. No. 13034, Jan. 30, 1997, 62 F.R. 5137, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Extension.* The Presidential Advisory Committee on Gulf War Veterans' Illnesses (the "Committee"), established pursuant to Executive Order 12961 [set out above] of May 26, 1995, is hereby extended for the purposes set forth herein. All provisions of that order relating to membership and administration shall remain in effect. All Committee appointments, as well as the President's designation of a Chairperson, shall remain in effect. The limitations set forth in section 2(c)-(e) and section 4(a) of Executive Order 12961 shall also remain in effect. The Committee shall remain subject to the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

SEC. 2. *Functions.* (a) The Committee shall report to the President through the Secretary of Defense, the Secretary of Veterans Affairs, and the Secretary of Health and Human Services.

(b) The Committee shall have two principal roles:

(1) Oversight of the ongoing investigation being conducted by the Department of Defense with the assistance, as appropriate, of other executive departments and agencies into possible chemical or biological warfare agent exposures during the Gulf War; and

(2) Evaluation of the Federal Government's plan for and progress towards the implementation of the Committee's recommendations contained in its Final Report submitted on December 31, 1996.

(c) The Committee shall provide advice and recommendations related to its oversight and evaluation responsibilities.

(d) The Committee may also provide additional advice and recommendations prompted by any new developments related to its original functions as set forth in section 2(b) of Executive Order 12961.

(e) The Committee shall submit by letter a status report by April 30, 1997, and a final supplemental report by October 31, 1997, unless otherwise directed by the President.

SEC. 3. *General Provisions.* (a) The Committee shall terminate 30 days after submitting its final supplemental report.

(b) This order is intended only to improve the internal management of the executive branch and it is not intended to create any right, benefit or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person.

WILLIAM J. CLINTON.

**§ 1118. Presumptions of service connection for illnesses associated with service in the Persian Gulf during the Persian Gulf War**

(a)(1) For purposes of section 1110 of this title, and subject to section 1113 of this title, each illness, if any, described in paragraph (2) shall be considered to have been incurred in or aggravated by service referred to in that paragraph, notwithstanding that there is no record of evidence of such illness during the period of such service.

(2) An illness referred to in paragraph (1) is any diagnosed or undiagnosed illness that—

(A) the Secretary determines in regulations prescribed under this section to warrant a presumption of service connection by reason of having a positive association with exposure to

a biological, chemical, or other toxic agent, environmental or wartime hazard, or preventive medicine or vaccine known or presumed to be associated with service in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War; and

(B) becomes manifest within the period, if any, prescribed in such regulations in a veteran who served on active duty in that theater of operations during that war and by reason of such service was exposed to such agent, hazard, or medicine or vaccine.

(3) For purposes of this subsection, a veteran who served on active duty in the Southwest Asia theater of operations during the Persian Gulf War and has an illness described in paragraph (2) shall be presumed to have been exposed by reason of such service to the agent, hazard, or medicine or vaccine associated with the illness in the regulations prescribed under this section unless there is conclusive evidence to establish that the veteran was not exposed to the agent, hazard, or medicine or vaccine by reason of such service.

(4) For purposes of this section, signs or symptoms that may be a manifestation of an undiagnosed illness include the signs and symptoms listed in section 1117(g) of this title.

(b)(1)(A) Whenever the Secretary makes a determination described in subparagraph (B), the Secretary shall prescribe regulations providing that a presumption of service connection is warranted for the illness covered by that determination for purposes of this section.

(B) A determination referred to in subparagraph (A) is a determination based on sound medical and scientific evidence that a positive association exists between—

(i) the exposure of humans or animals to a biological, chemical, or other toxic agent, environmental or wartime hazard, or preventive medicine or vaccine known or presumed to be associated with service in the Southwest Asia theater of operations during the Persian Gulf War; and

(ii) the occurrence of a diagnosed or undiagnosed illness in humans or animals.

(2)(A) In making determinations for purposes of paragraph (1), the Secretary shall take into account—

(i) the reports submitted to the Secretary by the National Academy of Sciences under section 1603 of the Persian Gulf War Veterans Act of 1998; and

(ii) all other sound medical and scientific information and analyses available to the Secretary.

(B) In evaluating any report, information, or analysis for purposes 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 an illness in humans or animals and exposure to an agent, hazard, or medicine or vaccine shall be considered to be positive for purposes of this subsection if the credible evidence for the association is equal to or outweighs the credible evidence against the association.

(c)(1) Not later than 60 days after the date on which the Secretary receives a report from the National Academy of Sciences under section 1603 of the Persian Gulf War Veterans Act of 1998, the Secretary shall determine whether or not a presumption of service connection is warranted for each illness, if any, covered by the report.

(2) If the Secretary determines under this subsection that a presumption of service connection is warranted, the Secretary shall, not later than 60 days after making the determination, issue proposed regulations setting forth the Secretary's determination.

(3)(A) If the Secretary determines under this subsection that a presumption of service connection is not warranted, the Secretary shall, not later than 60 days after making the determination, publish in the Federal Register a notice of the determination. The notice shall include an explanation of the scientific basis for the determination.

(B) If an illness already presumed to be service connected under this section is subject to a determination under subparagraph (A), the Secretary shall, not later than 60 days after publication of the notice under that subparagraph, issue proposed regulations removing the presumption of service connection for the illness.

(4) 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 the presumption of service connection for an illness under this section is removed under subsection (c)—

(1) a veteran who was awarded compensation for the illness on the basis of the presumption before the effective date of the removal of the presumption 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 the illness on the basis of the presumption before that date shall continue to be entitled to receive dependency and indemnity compensation on that basis.

(e) Subsections (b) through (d) shall cease to be effective on September 30, 2011.

(Added Pub. L. 105-277, div. C, title XVI, §1602(a)(1), Oct. 21, 1998, 112 Stat. 2681-742; amended Pub. L. 107-103, title II, §202(b)(2), (d)(1), Dec. 27, 2001, 115 Stat. 989.)

#### REFERENCES IN TEXT

Section 1603 of the Persian Gulf War Veterans Act of 1998, referred to in subsecs. (b)(2)(A)(i) and (c)(1), is section 1603 of Pub. L. 105-277, which is set out in a note under section 1117 of this title.

#### AMENDMENTS

2001—Subsec. (a)(4). Pub. L. 107-103, §202(b)(2), added par. (4).

Subsec. (e). Pub. L. 107-103, §202(d)(1), substituted “on September 30, 2011” for “10 years after the first day of the fiscal year in which the National Academy of Sciences submits to the Secretary the first report under section 1603 of the Persian Gulf War Veterans Act of 1998”.

#### EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by section 202(b)(2) of Pub. L. 107-103 effective Mar. 1, 2002, see section 202(c) of Pub. L. 107-103, set out as a note under section 1117 of this title.

### SUBCHAPTER III—WARTIME DEATH COMPENSATION

#### § 1121. Basic entitlement

The surviving spouse, child or children, and dependent parent or parents of any veteran who died before January 1, 1957 as the result of injury or disease incurred in or aggravated by active military, naval, or air service, in line of duty, during a period of war, shall be entitled to receive compensation at the monthly rates specified in section 1122 of this title.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1122, §321; Pub. L. 92-197, §6, Dec. 15, 1971, 85 Stat. 662; Pub. L. 94-433, title IV, §404(12), Sept. 30, 1976, 90 Stat. 1378; renumbered §1121 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

#### AMENDMENTS

1991—Pub. L. 102-83, §5(a), renumbered section 321 of this title as this section.

Pub. L. 102-83, §5(c)(1), substituted “1122” for “322”.

1976—Pub. L. 94-433 substituted “spouse” for “widow”.

1971—Pub. L. 92-197 struck out eligibility clause when the veteran died after April 30, 1957, under circumstances described in section 417(a) 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 1971 AMENDMENT

Amendment by Pub. L. 92-197 effective Jan. 1, 1972, see section 10 of Pub. L. 92-197, set out as a note under section 1311 of this title.

#### § 1122. Rates of wartime death compensation

(a) The monthly rates of death compensation shall be as follows:

- (1) Surviving spouse but no child, \$87;
- (2) Surviving spouse with one child, \$121 (with \$29 for each additional child);
- (3) No surviving spouse but one child, \$67;
- (4) No surviving spouse but two children, \$94 (equally divided);
- (5) No surviving spouse but three children, \$122 (equally divided) (with \$23 for each additional child, total amount to be equally divided);
- (6) Dependent parent, \$75;
- (7) Both dependent parents, \$40 each.

(b) The monthly rate of death compensation payable to a surviving spouse or dependent parent under subsection (a) of this section shall be increased by \$79 if the payee is (1) a patient in a nursing home or (2) blind, or so nearly blind or significantly disabled as to need or require the regular aid and attendance of another person.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1122, §322; Pub. L. 91-96, §7, Oct. 27, 1969, 83 Stat. 146; Pub. L. 91-588, §3(a), Dec. 24, 1970, 84 Stat. 1583; Pub. L. 92-197, §9, Dec. 15, 1971, 85 Stat. 662; Pub. L. 93-295, title II, §204, May 31, 1974, 88 Stat. 183; Pub. L. 94-169, title II, §202, Dec. 23, 1975, 89 Stat.