

# Office of Administrative Review

## PACT Act Effective Dates Under Legacy Appeals and Higher-Level Reviews



### Purpose

This tip sheet provides guidance and examples on effective dates for legacy appeals and Higher-Level Reviews (HLR) impacted by Public Law (P.L.) 117-168, Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics Act of 2022 (PACT Act).



### Audience

Decision Review Operations Centers (DROC) claims processors.



### References

- [P.L. 117-168](#)
- [M21-1, Part V, Subpart ii, Chapter 4, Section A - Effective Dates](#)
- [PACT Act Implementation Standard Operating Procedure \(SOP\)](#)
- [PACT Act Frequently Asked Questions \(FAQ\)](#)

### Tips

Use the following tips and the table below to assist in establishing the effective date when granting legacy appeals and HLRs under the PACT Act.

- PACT Act effective date is August 10, 2022 (date P.L. 117-168 signed into law)
- Ask yourself - Was the claim pending on the effective date?
  - Both pre-PACT Act and PACT Act provisions could apply.



Basis of Service Connection	Effective Date Provision	Examples
Toxic Exposure Risk Activity (TERA) under <a href="#">38 U.S.C. § 1168</a> , <a href="#">Medical nexus examinations for toxic exposure activities</a>	August 10, 2022, <a href="#">38 C.F.R. § 3.114</a> applies	Claim for chronic bronchitis (diagnosed in 2010) due to jet fuel, received 7/15/2022; TERA medical opinion requested; grant under PACT Act <ul style="list-style-type: none"><li>• Effective date 8/10/2022</li></ul>
Toxic Exposure Risk		Same facts but claim

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<p>Activity (TERA) under <a href="#">38 U.S.C. § 1168</a>, <a href="#">Medical nexus examinations for toxic exposure activities</a></p> <p>(continued)</p>		<p>received 9/15/2022</p> <ul style="list-style-type: none"> <li>Effective date 8/10/2022</li> </ul> <p>Same facts but an intent to file (ITF) received 8/1/2023, and claim received 7/5/2024</p> <ul style="list-style-type: none"> <li>Effective date 8/10/2022</li> </ul>
<p>New herbicide presumptive condition and/or location</p>	<p>August 10, 2022; <a href="#">38 C.F.R. § 3.114</a> applies</p>	<p>Veteran served in Laos from 1/3/1966 to 6/3/1966; files a claim for hypertension received 1/10/23; diagnosed in 2020</p> <ul style="list-style-type: none"> <li>Effective date 8/10/2022</li> </ul>
<p>Current <a href="#">38 C.F.R. § 3.309(e)</a> condition and pre-PACT Act presumptive location</p>	<p>Standard effective date rules</p>	<p>Claim for diabetes mellitus based on service in Republic of Vietnam</p> <ul style="list-style-type: none"> <li>PACT Act does not apply</li> </ul>
<p>Undiagnosed illness/medically unexplained chronic multi-symptom illness (MUCMI)</p> <ul style="list-style-type: none"> <li>Noncompensable</li> <li>New location</li> <li>No manifestation time limit</li> </ul>	<p>August 10, 2022; <a href="#">38 C.F.R. § 3.114</a> applies</p>	<p>Gulf War Veteran, served in Egypt, claims chronic fatigue syndrome (CFS), evaluated at 0 percent; previously denied 5/10/2022 because not compensable. HLR received 10/6/2022 for CFS, still evaluated at 0 percent.</p> <ul style="list-style-type: none"> <li>Effective date 8/10/2022 (cannot be earlier because the grant is under PACT Act)</li> </ul>
<p>Exposure to Burn Pits</p>	<p>August 10, 2022;</p>	<p>Gulf War Veteran, served in</p>

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and Other Toxins (BPOT) <ul style="list-style-type: none"><li>• Current <a href="#">38 C.F.R. § 3.320(a)(2)</a> condition and</li><li>• Current <a href="#">38 C.F.R. § 3.320</a> location and</li><li>• Manifested at any time following service in a qualifying location</li></ul>	<a href="#">38 C.F.R. § 3.114</a> applies	Iraq, discharged in 2002; asthma diagnosed in 2012; submits an ITF on 8/16/2023 and a claim for asthma on 8/15/2024 <ul style="list-style-type: none"><li>• Effective date 8/16/2022 (one year prior to the date of the ITF; Veteran met requirements for grant on date of law change)</li></ul>
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### Important Reminders



- If granting service connection due to a toxic exposure under authority that predates PACT Act, such as direct service connection, then do not apply PACT Act effective date provisions.
- Do not apply [38 C.F.R. § 3.816](#) (*Nehmer*) to herbicide claims granted on a new PACT provision.
- Claims received or associated with an ITF may be eligible for a retroactive payment under [38 C.F.R. § 3.114](#).
- **This is meant to be a tip sheet only. Please make sure to review the entire claims file to determine the correct effective date.**

### Other Resources



- OAR Quality Call Bulletin November 2023 (TMS 4647281)
- [PACT Act Information Page](#)

### Questions



Discuss any questions on this tip sheet locally with peers, experts, quality staff, and/or management. Management may route any questions requiring OAR assistance to [OARADMIN.VBAWAS@va.gov](mailto:OARADMIN.VBAWAS@va.gov).