



441 G St. N.W.  
Washington, DC 20548

B-336981

January 17, 2025

The Honorable Jerry Moran  
Chairman  
The Honorable Richard Blumenthal  
Ranking Member  
Committee on Veterans' Affairs  
United States Senate

The Honorable Mike Bost  
Chairman  
The Honorable Mark Takano  
Ranking Member  
Committee on Veterans' Affairs  
House of Representatives

Subject: *Department of Veterans Affairs: Presumptive Service Connection for Bladder, Ureter, and Related Genitourinary Cancers Due to Exposure to Fine Particulate Matter*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Veterans Affairs (VA) entitled "Presumptive Service Connection for Bladder, Ureter, and Related Genitourinary Cancers Due to Exposure to Fine Particulate Matter" (RIN: 2900-AS21). We received the rule on January 2, 2025. It was published in the *Federal Register* on January 2, 2025. 90 Fed. Reg. 23. The effective date of the rule is January 2, 2025.

This rule amends VA's adjudicative regulations to establish presumptive service connection for urinary bladder, ureter, and related genitourinary cancers due to exposure to Particulate Matter 2.5 and to implement certain provisions of the Sergeant First Class Health Robinson Honoring our Promise to Address Comprehensive Toxics Act of 2022 (PACT Act). The new presumptions would apply to veterans who served on active military, naval, air, or space service in Southwest Asia theater of operations or Somalia during the Persian Gulf War on or after August 2, 1990, and in Afghanistan, Syria, Djibouti, Uzbekistan, Egypt, Jordan, Lebanon, and Yemen during the Gulf War on or after September 11, 2001. The rule will waive the evidentiary burden on Gulf War veterans who file claims with VA for these conditions.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The 60-day delay in effective date does not apply, however, if the agency finds for good cause that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, and the agency incorporates the finding and a brief statement of its reasons in the rule. 5 U.S.C. §§ 553(b)(3)(B), 808(2). Here, the agency found good cause to waive notice and comment procedures and incorporated a brief statement of reasons. Specifically, VA stated that ordinary notice and comment procedures

here would be impracticable, in that they would cause veterans serious harm by further delaying and in some cases preventing veterans from receiving benefits of these presumptions given the nature of the diseases at issue. 90 Fed. Reg. at 28.

Enclosed is our assessment of VA's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Charlie McKiver, Assistant General Counsel, at (202) 512-5992.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive, flowing style.

Shirley A. Jones  
Managing Associate General Counsel

Enclosure

cc: Consuela Benjamin  
Regulation Policy and Management  
Office of General Counsel  
Department of Veterans Affairs

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
DEPARTMENT OF VETERANS AFFAIRS  
ENTITLED  
“PRESUMPTIVE SERVICE CONNECTION FOR BLADDER, URETER, AND RELATED  
GENITOURINARY CANCERS DUE TO EXPOSURE TO FINE PARTICULATE MATTER”  
(RIN: 2900-AS21)

(i) Cost-benefit analysis

The Department of Veterans Affairs (VA) prepared a regulatory impact analysis assessing the costs and benefits of this rule. According to VA, the total budgetary impact of the rule is estimated to be \$107.0 million in 2025, \$1.1 billion over five years, and \$2.8 billion over 10 years.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603–605, 607, and 609

In its submission to us, VA indicated that the Act is not applicable to the rule.

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

VA determined that this rule will not have an effect on state, local, and tribal governments, in the aggregate, or on the private sector, of \$100 million in 1995 dollars, updated annually for inflation, in any one year. See 90 Fed. Reg. 29.

(iv) Agency actions relevant to the Administrative Pay-As-You-Go-Act of 2023, Pub. L. No. 118-5, div. B, title III, 137 Stat 31 (June 3, 2023)

Section 270 of the Administrative Pay-As-You-Go-Act of 2023 amended 5 U.S.C. § 801(a)(2)(A) to require GAO to assess agency compliance with the Act, which establishes requirements for administrative actions that affect direct spending, in GAO’s major rule reports. In guidance to Executive Branch agencies, issued on September 1, 2023, the Office of Management and Budget (OMB) instructed that agencies should include a statement explaining that either: “the Act does not apply to this rule because it does not increase direct spending; the Act does not apply to this rule because it meets one of the Act’s exemptions (and specifying the relevant exemption); the OMB Director granted a waiver of the Act’s requirements pursuant to section 265(a)(1) or (2) of the Act; or the agency has submitted a notice or written opinion to the OMB Director as required by section 263(a) or (b) of the Act” in their submissions of rules to GAO under the Congressional Review Act. OMB, *Memorandum for the Heads of Executive Departments and Agencies*, Subject: Guidance for Implementation of the Administrative Pay-As-You-Go Act of 2023, M-23-21 (Sept. 1, 2023), at 11–12. OMB also states that directives in the memorandum that supplement the requirements in the Act do not apply to proposed rules that have already been submitted to the Office of Information and Regulatory Affairs, however agencies must comply with any applicable requirements of the Act before finalizing such rules.

In its submission to us, VA indicated that it did not prepare a statement regarding compliance with the requirements of the Act.

(v) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

VA concluded there was good cause to publish the rule without prior opportunity for comment and to publish the rule with an immediate effective date. 90 Fed. Reg. 28. VA explained that there was good cause to immediately address the needs of service members and veterans who have been exposed to airborne hazards due to their service in the Southwest Asia theater of operations, Afghanistan, Syria, Djibouti, Uzbekistan, Somalia, Egypt, Jordan, Lebanon, and Yemen. *Id.*

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

VA determined that this rule contains no information collection requirements under the Act. 90 Fed. Reg. 29.

Statutory authorization for the rule

VA promulgated this rule pursuant to 38 U.S.C. § 501(a).

Executive Order No. 12866 (Regulatory Planning and Review)

VA stated that this rule is significant under the Order. See 90 Fed. Reg. 29. VA submitted the rule to OMB for review. *Id.*

Executive Order No. 13132 (Federalism)

In its submission to us, VA indicated that the Order is not applicable to this rule.