



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

B-337005

January 27, 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 Leukemias, Multiple Myelomas, Myelodysplastic Syndromes, and Myelofibrosis 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) titled "Presumptive Service Connection for Leukemias, Multiple Myelomas, Myelodysplastic Syndromes, and Myelofibrosis Due to Exposure to Fine Particulate Matter" (RIN: 2900-AS27). We received the rule on January 10, 2025. It was published in the *Federal Register* on January 10, 2025. 90 Fed. Reg. 1894. The effective date of the rule is January 10, 2025.

According to VA, it is issuing this interim final rule (IFR) to amend its adjudication regulations to establish presumptive service connection for acute leukemias, chronic leukemias, multiple myelomas, myelodysplastic syndromes, and myelofibrosis due to exposure to Particulate Matter 2.5 (PM_{2.5}). VA stated that the new presumptions would apply to veterans who served on active military, naval, air, or space service in the Southwest Asia theater of operations or Somalia during the Persian Gulf War (hereafter 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 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)(4)(B), 808(2).

Pursuant to 5 U.S.C. § 553(b)(B) and (d)(3), VA has determined that there is good cause to publish this IFR without prior opportunity for comment and to publish the rule with an immediate effective date. 90 Fed. Reg. at 1900. According to VA, there is good cause to immediately address the needs of service members and veterans who have been exposed to airborne hazards, *i.e.* PM_{2.5}, due to their service in the Southwest Asia theater of operations, Afghanistan, Syria, Djibouti, Uzbekistan, Somalia, Egypt, Jordan, Lebanon, and Yemen. VA stated, given the nature of the diseases at issue, it concludes that the ordinary notice-and-comment procedures here would be impracticable, and that it would cause veterans serious harm by delaying and in certain situations entirely denying veterans the benefits of these presumptions. VA also stated that good cause exists because this veteran population is aging and leukemias, multiple myelomas, myelodysplastic syndromes, and myelofibrosis are diseases of significant morbidity and mortality.

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 cursive script that reads "Shirley A. Jones".

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Luvenia Potts
Office of Regulation Policy and Management
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
TITLED
“PRESUMPTIVE SERVICE CONNECTION FOR LEUKEMIAS,
MULTIPLE MYELOMAS, MYELOYDYSPLASTIC SYNDROMES, AND MYELOFIBROSIS
DUE TO EXPOSURE TO FINE PARTICULATE MATTER”
(RIN: 2900-AS27)

(i) Cost-benefit analysis

The Department of Veterans Affairs (VA) prepared an analysis of the cost and benefits of this interim final rule (IFR). In its submission to us, VA stated that both transfers and costs are associated with the IFR. VA estimates the total budgetary impact of the IFR to be \$72.6 million in 2025, \$726.1 million over five years, and \$1.7 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 stated that it determined that this IFR will not have a significant economic impact on a substantial number of small entities.

(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 IFR will not have an effect on state, local, or 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. 1894, 1901 (Jan. 10, 2025).

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

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

Pursuant to 5 U.S.C. § 553(b)(B) and (d)(3), VA has determined that there is good cause to publish this IFR without prior opportunity for comment and to publish the rule with an immediate effective date. 90 Fed. Reg. at 1900. According to VA, there is good cause to immediately address the needs of service members and veterans who have been exposed to airborne hazards, *i.e.* Particulate Matter 2.5, due to their service in the Southwest Asia theater of operations, Afghanistan, Syria, Djibouti, Uzbekistan, Somalia, Egypt, Jordan, Lebanon, and Yemen. VA stated, given the nature of the diseases at issue, it concludes that the ordinary notice-and-comment procedures here would be impracticable, in that they would cause veterans serious harm by delaying and in certain situations entirely denying veterans the benefits of these presumptions. VA also stated that good cause exists because this veteran population is aging and leukemias, multiple myelomas, myelodysplastic syndromes, and myelofibrosis are diseases of significant morbidity and mortality.

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

VA determined that there are no provisions in this IFR that constitute a new collection of information or any revisions to the existing collection of information. 90 Fed. Reg. at 1901.

Statutory authorization for the rule

VA promulgated this IFR pursuant to sections 501 and 1171 of title 38, United States Code. 90 Fed. Reg. at 1899.

Executive Order No. 12866 (Regulatory Planning and Review)

In its submission to us, VA stated that this IFR is significant under the Order.

Executive Order No. 13132 (Federalism)

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