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United States General Accounting Office
Washington, DC 20548

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May 18, 2001

The Honorable Arlen Specter
Chairman
The Honorable John D. Rockefeller
Ranking Member
Committee on Veterans' Affairs
United States Senate

The Honorable Christopher H. Smith
Chairman
The Honorable Lane Evans
Ranking Minority Member
Committee on Veterans' Affairs
House of Representatives

Subject: Department of Veterans Affairs: Disease Associated With Exposure to
Certain Herbicide Agents: Type 2 Diabetes

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 "Disease Associated With Exposure to Certain Herbicide Agents: Type 2 Diabetes" (RIN: 2900-AK63). We received the rule on May 4, 2001. It was published in the Federal Register as a final rule on May 8, 2001. 66 Fed. Reg. 23166.

The final rule amends the VA's adjudication regulations concerning presumptive service connection for certain diseases for which there is no record during service. The rule implements a decision by the Secretary of Veterans Affairs under 38 U.S.C. 116 that there is a positive association between exposure to herbicides used in the Republic of Vietnam during the Vietnam era and the subsequent development of Type 2 diabetes.

Enclosed is our assessment of the 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. Our review indicates that the VA complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO

evaluation work relating to the subject matter of the rule is William Scanlon, Managing Director, Health Care. Mr. Scanlon can be reached at (202) 512-7114.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: Mr. Thomas O. Gessel
Director, Office of Regulations
Management
Department of Veterans Affairs

ENCLOSURE

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF VETERANS AFFAIRS
ENTITLED
"DISEASE ASSOCIATED WITH EXPOSURE TO
CERTAIN HERBICIDE AGENTS: TYPE 2 DIABETES"
(RIN: 2900-AK63)

(i) Cost-benefit analysis

VA estimates that the 5-year cost of the final rule will be \$3.3 billion in benefits costs and \$62 million in government operating expenses. Benefits costs for years 2001-2005 are estimated at \$16.6 million, \$303 million, \$720.1 million, \$1.01 billion, and \$1.205 billion.

The average monthly award for original and reopened claims is estimated to be \$462 and \$786, respectively.

VA expects the administrative workload to be 13,361 claims filed in 2001 and more than 220,000 over 5 years. Full-time employee resources devoted to processing the claims in years 1 through 5 are estimated at 128, 378, 311, 185, and 123, respectively.

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

The VA has certified that the final rule 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

As defined in title II, the final rule does not contain either an intergovernmental or private sector mandate of more than \$100 million in any one year.

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

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

The final rule was issued using the notice and comment procedures contained at 5 U.S.C. 553. On January 11, 2001, the VA published a Notice of Proposed Rulemaking in the Federal Register. 66 Fed. Reg. 2376. The VA received 14 comments in response to the notice and discusses them in the preamble to the final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule does not contain any information collections that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Statutory authorization for the rule

The final rule is promulgated pursuant to the authority contained in 38 U.S.C. 501(a) and 1116.

Executive Order No. 12866

The final rule was reviewed by OMB and was found to be an “economically significant” regulatory action under the order.