

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

B-333337

July 27, 2021

The Honorable Jon Tester
Chairman
The Honorable Jerry Moran
Ranking Member
Committee on Veterans' Affairs
United States Senate

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

Subject: *Department of Veterans Affairs: Loan Guaranty: COVID-19 Veterans Assistance Partial Claim Payment Program*

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 "Loan Guaranty: COVID-19 Veterans Assistance Partial Claim Payment Program" (RIN: 2900-AR05). We received the rule on May 28, 2021. It was published in the *Federal Register* as a final rule on May 28, 2021. 86 Fed. Reg. 28692. The effective date is July 27, 2021.

According to VA, the final rule establishes the COVID-19 Veterans Assistance Partial Claim Payment program (COVID-VAPCP). VA states that this is a temporary program to help veterans return to making normal loan payments on a VA-guaranteed loan (guaranteed loan) after exiting a forbearance for financial hardship due, directly or indirectly, to the COVID-19 national emergency.

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 final rule was published on May 28, 2021. 86 Fed. Reg. 28692. The House of Representatives received the rule on June 30, 2021. 167 Cong. Rec. H3907 (daily ed. July 26, 2021). The *Congressional Record* does not yet reflect the date of receipt by the Senate. The rule has a stated

effective date of July 27, 2021. Therefore, the final rule does not have the required 60-day delay in its effective date.

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 Shari Brewster, Assistant General Counsel, at (202) 512-6398.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive style with a large initial "S" and a long, sweeping underline.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Luvenia Potts
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
“LOAN GUARANTY: COVID-19 VETERANS ASSISTANCE
PARTIAL CLAIM PAYMENT PROGRAM”
(RIN: 2900-AR05)

(i) Cost-benefit analysis

The Department of Veterans Affairs (VA) states that the final rule will result in a net budget savings to the government between \$674.25 million and \$1.01 billion. VA also included a table of estimated transfers, costs, and net budget impacts for fiscal years 2021-2050. VA estimated the 30-year transfer total to fall between \$242,563,421 and \$365,388,712.

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

VA certified that the final rule will not have a significant economic impact on a substantial number of small entities, as defined in the Act.

(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 final rule will not have an effect on state, local, or tribal governments, in the aggregate, or on the private sector of \$100 million, adjusted for inflation, or more.

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

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

On December 9, 2020, VA published a proposed rule. 85 Fed. Reg. 79142. VA received 18 comments from individuals, lenders, servicers, trade organizations, and consumer groups. VA also received one comment co-signed by 27 national- and state-level trade and consumer organizations. VA responded to comments in this final rule.

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

VA determined that this final rule contains information collection requirements (ICRs) under the Act. VA submitted the ICRs to the Office of Management and Budget (OMB) for review. VA estimates a total annual cost ranging from \$2,503,017 and \$3,757,347 as a result of ICRs associated with this rulemaking.

VA estimated the burden of ICRs regarding applications for a COVID-19 veterans assistance partial claim under 38 C.F.R. § 36.4806 (OMB Control Number 2900-XXXX (NEW)) to be 94,854 total hours. VA also estimated no additional burden hours for ICRs regarding VA's loan electronic reporting interface (VALERI) system under 38 C.F.R. § 36.4807 (OMB Control

Number 2900-0021) and ICRs regarding maintenance of records under 38 C.F.R. §§ 36.4333, 36.4336, and 36.4810 (OMB Control Number 2900-0515).

Statutory authorization for the rule

VA promulgated this final rule pursuant to sections 501, 3703, 3704(d), 3720, and 3732 of title 38, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

OMB determined that this final rule is a significant regulatory action under the Order.

Executive Order No. 13132 (Federalism)

In its submission to us, VA indicated that it did not prepare an analysis of the federalism implications of this final rule.