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| **VA** | **U.S. Department**  **of Veterans Affairs** |

## Office of the Secretary In Reply Refer To: 00REG Washington DC 20420

Date: August 29, 2016

Subj: Economic Impact Analysis for RIN 2900-AP66, Diseases Associated with Exposure to Contaminants in the Water Supply at Camp Lejeune

I have reviewed this rulemaking package and determined the following.

1. VA has examined the economic, interagency, budgetary, legal, and policy implications of this regulatory action and has concluded that it is an economically significant rule under Executive Order 12866 because it is likely to result in a regulatory action that may have an annual effect on the economy of $100 million or more.

2. This regulatory action is also a major rule under the Congressional Review Act, because it is likely to result in an annual effect on the economy of $100 million or more.

3. This rulemaking will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601-612.

4. This rulemaking will not result in the expenditure of $100 million or more by State, local, and tribal governments, in the aggregate, or by the private sector, under the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532.

5. Attached please find the relevant cost impact documents.

**(Attachment 1):** Agency’s Impact Analysis, dated August 15, 2016

**(Attachment 2):** CFO Concurrence memo, dated August 15, 2016

**Approved by:**

Michael P. Shores, MSRC

Acting, Director Regulation Policy & Management (00REG)

Office of the Secretary

**(Attachment 1)**

**Regulatory Impact Analysis (RIA) for RIN 2900-AP66**

# Title of Regulation: Diseases Associated with Exposure to Contaminants in the Water Supply at Camp Lejeune

**Purpose:** To determine the economic impact of this rulemaking.

**The Need for the Regulatory Action:**

The Secretary has determined that proof of qualifying service at Camp Lejeune and the subsequent development of one or more of the eight disabilities identified by the Technical Working Group (TWG) is sufficient to support proposing a presumption that the resulting disability was incurred in the line of duty during active military, naval, or air service, to include qualifying reserve or National Guard service, to establish entitlement to service connection.

The TWG’s assessment relied on a hazard evaluation model, focusing on the conclusions of internationally respected expert scientific bodies (the Environmental Protection Agency’s Integrated Risk Information System (EPA/IRIS), the National Institute of Health’s National Toxicology Program (NIH/NTP), the World Health Organization’s International Agency for Research on Cancer (WHO/IARC), and the National Academies of Sciences’ National Research Council and Institute of Medicine (NAS/NRC/IOM)). These organizations were chosen for their rigorous expert selection and peer review processes to ensure objective and nuanced conclusions. The TWG did not take into account the estimated levels of contamination in the water at Camp Lejeune and therefore could not characterize any risk associated with a specific level of exposure to contaminated water.

As the available scientific evidence does not provide specific data on exposure levels, VA therefore proposes to use the health care provisions of Public Law 112-154, and its prior implementation of the statute, as a guide to ensure consistency and parity with both the statute and existing healthcare regulations. Specifically, VA proposes to presume exposure to contaminants in the water at Camp Lejeune for all active duty, reserve, and National Guard personnel who served for at least 30 days (consecutive or nonconsecutive) at Camp Lejeune during the period beginning August 1, 1953, and ending on December 31, 1987. The mortality and source site for these conditions is listed in the table below.

**Table – Proposed Diseases**

|  |  |  |
| --- | --- | --- |
| **Conditions** | **Mortality** | **Source** |
| Kidney Cancer | 5.3% | http://seer.cancer.gov/statfacts/html/kidrp.html 5-year survival %: 73.7% |
| Non-Hodgkins Lymphoma | 5.9% | http://seer.cancer.gov/statfacts/html/nhl.html 5 year Survival%: 70.7% |
| Multiple Myeloma | 10.3% | http://seer.cancer.gov/statfacts/html/mulmy.html 5 year Survival%: 48.5% |
| Leukemias | 8.1% | http://seer.cancer.gov/statfacts/html/leuks.html 5 year Survival%: 59.7% |
| Liver Cancer | 16.5% | http://seer.cancer.gov/statfacts/html/livibd.html 5 year Survival%: 17.5% |
| Parkinsons Disease | 2.4% | http://www.ssa.gov/oact/STATS/table4c6.html Age 70 general mortality: 2.4% |
| myelodysplastic syndromes | 8.1% | Data not found; however is associated with leukemias - therefore assumed same mortality as leukemia |
| Bladder Cancer | 4.5% | http://seer.cancer.gov/statfacts/html/urinb.html 5 year Survival%: 77.5% |

# This methodology estimates the potential budgetary impact of VA presuming service connection for these eight conditions for veterans, former reservists, and former National Guard members who served at Camp Lejeune during the period of water contamination for at least 30 days (consecutive or nonconsecutive).

**Estimated Impact:** Mandatory Costs

Benefit costs are estimated to be $379.8 million during the first year and $2.2 billion over a five year period. For purposes of regulatory impact analysis conducted pursuant to Executive Orders 12866 and 13563, these effects are categorized as transfers from the federal government to veterans, reservists and survivors.

|  |  |  |
| --- | --- | --- |
| Total Veterans, Reservists, and Survivors | | |
| FY | Caseload | Obligations (in 000's) |
| 2018 | 19,514 | $379,791 |
| 2019 | 20,597 | $411,091 |
| 2020 | 21,569 | $441,880 |
| 2021 | 22,441 | $471,127 |
| 2022 | 23,225 | $499,920 |
| **5-year Total** |  | **$2,203,808** |

General Operating Expenses (GOE)

The GOE costs for the first year are estimated to be $19.2 million and include salary, benefits, rent, training, supplies, other service, and equipment. Five-year costs are estimated to be $60.7 million.

|  |  |  |
| --- | --- | --- |
| **GOE Costs** | | |
| **Fiscal Year** | **FTE** | **Obligations ($000)** |
| 2018 | 174 | $19,212 |
| 2019 | 94 | $9,822 |
| 2020 | 85 | $9,885 |
| 2021 | 81 | $10,848 |
| 2022 | 80 | $10,964 |
| **5-Year Total** |  | **$60,731** |

Information Technology (IT) Costs

Estimated IT costs for the first year are $335,000. Five-year costs are estimated to be $1 million. This includes the IT equipment for FTE, installation, maintenance, and IT support.

|  |  |  |
| --- | --- | --- |
| **IT Costs** | | |
| **Fiscal Year** | **FTE** | **Obligations ($000)** | |
| 2018 | 174 | $335 | |
| 2019 | 94 | $183 | |
| 2020 | 85 | $169 | |
| 2021 | 81 | $165 | |
| 2022 | 80 | $165 | |
| **5-Year Total** |  | **$1,017** | |

**Assumptions and Methodology of the Analysis:**

Benefits Methodology

VA is establishing presumptive service connection for eight conditions for which there is at least some epidemiological evidence for an association with one or more of the contaminants found in the water supply at Camp Lejeune from August 1953 – December 1987. The diseases proposed are as follows: kidney cancer, liver cancer, non-Hodgkin’s lymphoma, adult leukemias, multiple myeloma, aplastic anemia and other myelodysplastic syndromes, Parkinson’s disease, and bladder cancer. This rulemaking will allow affected reservists and National Guard to establish Veteran status for the presumption of service connection and exposure to contaminated water.

The chart above summarizes combined Veteran, reservist, and survivor caseload and costs. The sections and charts below describe the methodology and resulting caseload and costs separately for Veterans/reservists and survivors. For purposes of this cost estimate, VA assumes an October 1, 2017 effective date.

Veteran/Reservist Caseload

The Department of Defense (DoD) estimates that approximately 720,000 Veterans and 142,468 reservists served at Camp Lejeune during the period of water contamination. Although VA proposes to limit the presumption of exposure and service connection to individuals who served at least 30 days at Camp Lejeune (consecutively or nonconsecutively), VA assumes that the number of individuals excluded by this 30-day requirement is insignificant for purposes of this cost estimate. In that regard, the nature of basic, advanced, and other training at Camp Lejeune is such that most individuals who passed through on official orders likely stayed for at least 30 days.

To estimate the number of these Veterans and reservists that are living, this population was distributed by age (18 to 37) and year exposed (1953 to 1987). The resulting distribution of Veterans and reservists was then aged using general mortality by age rates from the Social Security Administration (SSA) to determine that an estimated 404,336 Veterans and 80,007 reservists ranging from ages 49 to 102 will be living, and 315,664 Veterans and 62,461 reservists will have deceased by the beginning of 2018.

To estimate the number of Veterans living with each of these conditions as of the beginning of 2018, prevalence data from a variety of sources was utilized. The sources include the National Cancer Institute, American Cancer Society, Centers for Disease Control and Prevention, Census Bureau, Leukemia and Lymphoma Society, and Parkinson’s Disease Foundation. Further, where available, age-specific prevalence for persons age 45 and older was utilized. In addition, gender-specific prevalence for bladder cancer was used to calculate the caseload, due to a significantly higher prevalence of this condition among males. For purposes of calculating bladder cancer caseload using gender-specific prevalence, VBA assumes that 93.2 percent of Veterans serving at Camp Lejeune were male, based on recent Marine data. As VA develops more program data and becomes more cognizant of the actual use of healthcare benefits for Camp Lejeune veterans, VA will make appropriate adjustments in the final rule analysis. VA also welcomes public comments on these assumptions.

To estimate annual accessions to the Veteran compensation rolls (i.e. Veterans and reservists that do not have these conditions at the beginning of 2018 but are diagnosed and begin receiving benefits thereafter), incidence data for each condition from the sources listed above was utilized. Similarly, age and gender-specific incidence data was used for certain conditions. The incidence rates were applied to the Camp Lejeune living Veteran and reservist caseload projected out to 2022 to calculate new accessions each year. Condition-specific mortality rates were applied to the caseloads to calculate the number of Veteran and reservist deaths resulting from each condition. Mortality assumptions for most conditions were based on the 5 year survival rates provided from the sources listed above. For conditions where the mortality rate associated with the condition was lower than the general population at the age of 70 (i.e. Parkinson’s disease), the age 70 general population mortality rate was used.

Based on the prevalence, incidence, and mortality assumptions utilized for each condition, 11,843 Veterans and 2,342 reservists are estimated to have one of these conditions and receive compensation in 2018. Parkinson’s disease is estimated to be the most prevalent condition (4,160 Veterans/Reservists), with the next most prevalent conditions being bladder cancer (3,691) and non-Hodgkin’s lymphoma (1,950)

Veteran Costs

The projected Veteran compensation caseload for each condition was distributed by degree of disability, based on the distribution of Veterans currently on the rolls for the respective condition. The caseload was then broken into two groups: Veterans new to the rolls and Veterans already on the rolls. Based on data provided by VBA’s Office of Performance, Analysis, and Integrity, 47.4 percent of living Vietnam Veterans are on the compensation rolls. This percentage was applied to the Veteran caseload to calculate how many Veterans (with each condition and by degree of disability) are currently receiving compensation. The remaining 52.6 percent of Veterans are assumed to be new to the compensation rolls.

The 47.4 percent of Veterans already on the compensation rolls for other conditions are assumed to have an average current rating of 50 percent, which is based on the overall average degree of disability for Veterans on the compensation rolls. For these Veterans, a combined degree of disability was calculated based on the current 50 percent rating with an additional rating for one of the new Camp Lejeune conditions. The resulting combined rating varies from remaining at 50 percent (if the Veteran receives a 0 percent rating for the Camp Lejeune condition), to an increase to 100 percent (if the Veteran receives a 90 or 100 percent rating for the Camp Lejeune condition). The corresponding increase in average payments between degrees of disability, based on the 2017 Mid-Session Review (MSR) Budget, were applied to the caseload to calculate the increase in obligations.

To calculate costs for the 52.6 percent of Veterans estimated to be new to the compensation rolls, the average payments at each degree of disability from the 2017 MSR Budget were applied to the caseload. COLA’s from the 2017 MSR Budget were applied to estimate average costs in the out-years. Total Veteran caseload and costs associated with the Camp Lejeune presumptive conditions are shown in the table below.

|  |  |  |
| --- | --- | --- |
| Veterans | | |
| FY | Caseload | Obligations (in 000's) | |
| 2018 | 11,843 | $232,614 | |
| 2019 | 12,552 | $252,379 | |
| 2020 | 13,161 | $271,245 | |
| 2021 | 13,682 | $288,540 | |
| 2022 | 14,119 | $304,855 | |
| **5-year Total** |  | **$1,349,634** | |

Reservist Costs

The projected reservist caseload for each condition was also distributed by degree of disability, based on the distribution of Veterans currently on the rolls for the respective condition. However, VA assumes that all reservists would be new to the compensation rolls, as opposed to 52.6 percent new to the rolls and 47.4 percent already on the rolls for Veterans. To calculate costs for reservists, the average payments at each degree of disability from the 2017 MSR Budget were applied to the caseload. COLA’s from the 2017 MSR Budget were applied to estimate average costs in the out-years. Total reservist caseload and costs associated with the Camp Lejeune presumptive conditions are shown in the table below.

|  |  |  |  |
| --- | --- | --- | --- |
| Reservists | | | |
| FY | Caseload | Obligations (in 000's) |
| 2018 | 2,342 | $52,979 |
| 2019 | 2,482 | $57,438 |
| 2020 | 2,602 | $61,744 |
| 2021 | 2,703 | $65,616 |
| 2022 | 2,791 | $69,427 |
| **5-year Total** |  | **$307,204** |

Survivor Caseload

For purposes of this cost estimate, VA assumes that survivor Dependency and Indemnity Compensation (DIC) eligibility is a direct result of the Camp Lejeune related condition and that the survivors would not have been eligible for DIC based on other conditions the Veteran may have had. To estimate the number of survivors receiving DIC in 2018, data on deaths resulting from each condition was found from the sources listed above and applied to the estimated 315,664 Veterans and 62,461 Reservists that served at Camp Lejeune that deceased prior to 2018. Of the Veterans and reservists that died as a result of one of these conditions, VA further assumes that 50 percent were married, based on Census Bureau marriage statistics. Further, VA assumes that 60 percent of the spouses are still living, based on the percentage of living Veterans that were exposed to water contamination at Camp Lejeune. VA also assumes that 90 percent of eligible surviving spouses will apply for benefits and that all will be granted. Based on these assumptions, an estimated 5,329 survivors will receive benefits in 2018. The most common conditions associated with a surviving spouse receiving DIC in 2018 would be liver cancer (884), adult leukemias (830), and bladder cancer (818).

Survivor accessions in the out-years are based on the estimated deaths of Veterans receiving compensation for one of these conditions. The estimated Veteran deaths are based on the condition-specific mortality rates described above. Similarly, a 50 percent marriage rate, 90 percent application rate, and 100 percent grant rate was applied to calculate survivor accessions. For purposes of this cost estimate, survivors are assumed to access the rolls at the beginning of the year following the Veteran’s death. Survivor deaths were calculated by applying general population mortality rates from the SSA and used to project survivor caseload in the out-years.

Survivor Costs

Average payments for survivors receiving DIC are based on the 2017 MSR Budget. This average ($17,675 annually in FY 2018) was applied to the estimated caseload to calculate obligations. COLA’s from the 2017 MSR Budget were applied to estimate average costs in the out-years. Survivor caseload and costs are shown in the table below.

|  |  |  |
| --- | --- | --- |
| Survivors | | |
| FY | Caseload | Obligations (in 000's) | |
| 2018 | 5,329 | $94,197 | |
| 2019 | 5,563 | $101,274 | |
| 2020 | 5,806 | $108,891 | |
| 2021 | 6,056 | $116,970 | |
| 2022 | 6,315 | $125,637 | |
| **5-year Total** |  | **$546,970** | |

General Operating Expense (GOE) Methodology

GOE costs were developed using 174 FTE to include 78 Veterans Service Representatives (VSR) and 70 Rating Veterans Service Representative (RVSR) starting at the GS-7 and GS-9 levels respectively to process the estimated increase in claims. In addition, 10 GS-5 Claims Assistants, 5 GS-12 Assistant Coaches, and 11 GS-13 Coaches were included to support newly hired claims processors. The FTE requirement decreases in the out years to reflect the estimated reduction in workload.

In addition to the GS-levels above, all FTE costs were developed using the average VBA locality pay. Standard rates were applied for benefits, rent, supplies, and equipment. Training and travel costs were estimated based on 6 weeks for VSRs and RVSRs and two weeks for Coaches and Assistant Coaches for the first year only. Travel costs were determined using a standard travel rate. All other non-pay costs were developed based upon program requirements. The IT estimate is provided on behalf of OI&T using standard equipment, installation, and maintenance costs.

**Submitted by:** Brad Dutton and Charles Tapp, ORM Benefits Budget Division (24), Veterans Benefits Administration, Department of Veterans Affairs, Washington, DC

August 15, 2016.

**Camp Lejeune Reservist Healthcare RIA VHA Review**

At VBA’s request, VHA has reviewed the RIA pertaining to AP66.  The specific analysis concerned extending healthcare enrollment eligibility and coverage to a cohort of reservists who develop specific cancers and other conditions, which are presumed to be caused by exposure while they were stationed at Camp Lejeune to contaminants in the ground water.  VA did not examine new healthcare costs associated with treatment of liver cancer in non-reservists, for which healthcare benefits were not previously provided under Public Law 112-154 and implementing regulations. As VA develops more program data and becomes more cognizant of the actual use of healthcare benefits for Camp Lejeune Veterans, VA will make appropriate adjustments of these costs in the final rule analysis. VA also welcomes public comments that might help inform this analysis.

This analysis uses the projected reservist caseload from above. Under the proposed policy, even those who do not opt to enroll with VHA will have their health treatment costs for the specified conditions covered.

**VA’s Current Estimate of program costs for covering specific condition costs and enrollment in VHA for Reservists (reviewed):**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Reservists | | |  | |
| FY | Caseload | Obligations (in 000's) | |  |
| 2018 | 2,342 | $52,979 | |  |
| 2019 | 2,482 | $57,438 | |  |
| 2020 | 2,602 | $61,744 | |  |
| 2021 | 2,703 | $65,616 | |  |
| 2022 | 2,791 | $69,427 | |  |
| **5-year Total** |  | **$307,204** | |  |

**(Attachment 2)**

