September 18, 2026

The Honorable Douglas A. Collins
Secretary of Veterans Affairs
U.S. Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

Re: Petition for Prompt Final Rulemaking to Conform 38 C.F.R. § 3.317 to Section 405 of the Honoring Our PACT Act

Dear Secretary Collins:

The undersigned organizations respectfully petition the Department of Veterans Affairs (VA), under 5 U.S.C. § 553(e), to complete without further delay the rulemaking necessary to conform 38 C.F.R. § 3.317 to section 405 of the Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics Act of 2022 (Honoring Our PACT Act), Pub. L. No. 117-168. We further request prompt disposition under 5 U.S.C. § 555(b) and, if any part of this petition is denied, a written statement of grounds under 5 U.S.C. § 555(e).[1][8]

This is no longer principally a request that VA initiate a new regulatory project. VA proposed the core amendments on October 1, 2024, in RIN 2900-AR75; the comment period closed December 2, 2024. VA's 2026 Unified Agenda placed the action at the final-rule stage and projected final action in August 2026. Yet, despite more than four years having elapsed since the PACT Act's enactment, the current eCFR still recites the PACT-superseded 10-percent and December 31, 2026 manifestation requirements and still omits six countries Congress added to the definition of "Persian Gulf veteran."[3][4][5]

I. ACTION REQUESTED

1. **Finalize the § 3.317 amendments now.** Issue promptly a final rule adopting, at minimum, the § 3.317 amendments proposed at 89 Fed. Reg. 79,815, 79,828 (Oct. 1, 2024): revise the section heading and paragraphs (a)(1), (c)(3)(ii), and (e)(1).[4]
2. **Sever the mandatory corrections if the omnibus rule remains delayed.** If other provisions in RIN 2900-AR75 require additional review, publish the § 3.317 amendments as a separate final rule. VA expressly proposed that each provision of the rule is severable and capable of operating independently.
3. **Expressly confirm the governing date and protect affected claimants.** State in the final rule and its preamble that 38 U.S.C. § 1117, as amended, has governed claims since the PACT Act's enactment on August 10, 2022; that the contrary language remaining in § 3.317 cannot lawfully be used to deny or limit benefits; and that VA will identify and correct any decision in which the superseded regulatory cutoff, minimum-disability threshold, or geographic definition affected the outcome, consistent with applicable effective-date law.

4. **Codify the remaining section 405 duties or identify the rulemaking that will do so.** Add a claimant-facing provision implementing the Gulf War Illness questionnaire mandate in 38 U.S.C. § 1117(d) and the personnel-training mandate in § 1117(i)(1), or promptly propose those requirements in the appropriate title 38 regulations and cross-reference them in § 3.317. VA should also make the annual reports required by § 1117(i)(2) readily available to Congress, veterans, and the public.

5. **Provide a written disposition.** Acknowledge this petition, assign it a public docket or tracking number, and provide us a written decision. If VA believes publication of the pending final rule moots all or part of the petition, identify the Federal Register document and explain how each requested item has been resolved.

II. THE CONTROLLING STATUTE AND THE CURRENT REGULATORY CONFLICT

Section 405 of the Honoring Our PACT Act of 2022 amended 38 U.S.C. § 1117 in five distinct ways:[1][2]

PACT Act	Change	Statutory rule	Current § 3.317
§ 405(a)	**Eligibility threshold**	A qualifying chronic disability may become manifest "to any degree at any time."	§ 3.317(a)(1)(i) still requires in-theater manifestation or manifestation to at least 10 percent by Dec. 31, 2026.
§ 405(b)	**Made eligibility permanent**	Deleted the Secretary's authority to prescribe a closing manifestation period.	The obsolete Dec. 31, 2026 manifestation cutoff remains.
§ 405(c)	**Mandated a Gulf War Illness DBQ**	Requires use of a DBQ or successor questionnaire designed to identify Gulf War Illness when a Persian Gulf veteran presents at a VA medical facility with any one associated symptom.	No corresponding claimant-facing requirement appears in § 3.317; the 2024 proposal did not address it.
§ 405(d)	**Expanded covered veterans to include 6 additional countries**	Expanded "Persian Gulf veteran" to service in Afghanistan, Israel, Egypt, Turkey, Syria, or Jordan, in addition to the existing Southwest Asia coverage.	§ 3.317(e)(1) still lists only the Southwest Asia theater.
§ 405(e)	**Training and annual reporting**	Requires appropriate VA health-care-personnel training and an annual report to Congress.	No corresponding requirement appears in § 3.317; the 2024 proposal did not address it.

III. VA HAS ALREADY ACKNOWLEDGED THE REQUIRED CORRECTIONS

VA expressly acknowledged in a September 1, 2023 final rule that PACT Act § 405 removed the manifestation-period requirement and stated that implementation would occur in "separate and future rulemaking."[6] VA then issued the October 1, 2024 proposed rule. Its preamble correctly stated that section 405 removed both the manifestation requirements and the minimum compensable evaluation, and expanded the definition of Persian Gulf veteran to six additional locations. The proposed amendatory text would replace § 3.317(a)(1), make the infectious-disease cross-reference conforming change in § 3.317(c)(3)(ii), and revise § 3.317(e)(1).[4]

The 2026 Unified Agenda confirms that VA has considered the comments and decided to finalize the proposal with modifications; it lists RIN 2900-AR75 at the final-rule stage, with final action projected for August 2026. That projected month has passed without publication of a final rule.[5]

Because notice and an opportunity for comment have already been provided, no procedural obstacle prevents VA from promptly publishing the non-discretionary § 3.317 corrections. If the broader rule remains delayed, VA's own severability statement supplies a straightforward path: finalize the § 3.317 portion separately and continue work on the remaining provisions.[4]

IV. THE ONGOING MISMATCH IS HARMFUL AND LEGALLY UNTENABLE

The United States Code controls over a conflicting regulation, but veterans, veterans service officers and organizations, accredited representatives, adjudicators, and the public reasonably consult the CFR to learn the governing rules. The current text falsely signals that a veteran's qualifying disability must reach a 10-percent level by December 31, 2026 and falsely excludes veterans whose qualifying service occurred in Afghanistan, Israel, Egypt, Turkey, Syria, or Jordan. Those are not harmless technical defects.

The predictable public confusion is now visible. Recent reporting has had to explain that the apparent December 31 deadline remains in the regulation even though Congress eliminated it in 2022. Some of our organizations explained immediately after enactment that the PACT Act made Gulf War illness benefits permanent, eliminated the 10-percent threshold, and added six covered countries.[7][9]

VA's own regulatory agenda previously recognized the consequences of leaving PACT Act implementation to subregulatory guidance: confusion among adjudicators, benefit-decision errors, and litigation risk. Four years after enactment and nearly two years after the proposed rule, those acknowledged risks have ripened into avoidable uncertainty. Under 5 U.S.C. § 555(b), an agency must conclude matters presented to it within a reasonable time. Under 38 U.S.C. § 501(a), the Secretary has authority to prescribe all rules and regulations necessary or appropriate to carry out the laws administered by VA.[5][8]

V. PROPOSED REGULATORY TEXT

We request that VA publish at least the following text, which tracks the § 3.317 language VA already proposed in 2024. Ellipses indicate unchanged provisions.[4]

> **Section heading.** § 3.317 Presumption of service connection for certain undiagnosed illnesses and medically unexplained chronic multisymptom illnesses occurring in Persian Gulf veterans.

> **Paragraph (a)(1).** Except as provided in paragraph (a)(7) of this section, VA will pay compensation in accordance with 38 U.S.C. chapter 11 to a Persian Gulf veteran who exhibits objective indications of a qualifying chronic disability that became manifest to any degree at any time, provided that such disability, by history, physical examination, and laboratory tests, cannot be attributed to any known clinical diagnosis.

> **Paragraph (c)(3)(ii).** For purposes of this paragraph (c), the term qualifying period of service means service in the Southwest Asia theater of operations during the Gulf War or a period of active military, naval, or air service on or after September 19, 2001, in Afghanistan.

> **Paragraph (e)(1).** The term Persian Gulf veteran means a veteran who served on active military, naval, or air service in the Southwest Asia theater of operations, Afghanistan, Israel, Egypt, Turkey, Syria, or Jordan, during the Persian Gulf War.

We further propose a new paragraph (f), or substantively identical text in the most appropriate title 38 provisions, to make the remaining section 405 duties transparent and enforceable:

> **(f) Gulf War Illness questionnaire and training.** (1) If a Persian Gulf veteran at a Department medical facility presents with any one symptom associated with Gulf War Illness, Department health care personnel shall use a disability benefits questionnaire, or successor questionnaire, designed to identify Gulf War Illness, in addition to any other diagnostic actions the personnel determine appropriate. (2) The Department shall ensure that its health care personnel are appropriately trained to carry out this section.

The amendment must preserve all existing pathways for qualifying chronic disabilities, including undiagnosed illness and medically unexplained chronic multisymptom illness, and must not narrow any veteran's existing entitlement. The infectious-disease provisions in § 3.317(c) should be changed only as needed to prevent the expanded paragraph (e)(1) definition from unintentionally altering their scope unless VA affirmatively adopts a broader scope through reasoned rulemaking.

VI. REQUESTED DISPOSITION

We respectfully request that VA grant this petition and publish the final § 3.317 amendments without further delay. Given the facial conflict between the current regulation and a statute enacted more than four years ago—and the approach of the obsolete date still printed in the regulation—We request written acknowledgment within 30 days and a substantive response identifying VA's intended disposition and publication schedule within 60 days.

We would be pleased to discuss this petition with you, the Office of Regulation Policy and Management, the Veterans Benefits Administration, or other appropriate VA officials and to assist

in refining proposed regulatory language and rating criteria. However, such consultation should not postpone issuance of the already-proposed, non-discretionary corrections.

We thank you for your leadership. The courtesy of a reply is respectfully requested.

Respectfully,

AMVETS
Burn Pits 360
Commissioned Officers Association of the U.S. Public Health Service
Jewish War Veterans of the USA
Military Order of the Purple Heart
National Defense Committee
Sergeant Sullivan Circle
Service Women Action Network (SWAN)
Swords to Plowshares
Veteran Warriors
Veterans for Common Sense
Vietnam Veterans of America

Cc:

The Honorable Jerry Moran, Chairman, Senate Committee on Veterans' Affairs
The Honorable Richard Blumenthal, Ranking Member, Senate Committee on Veterans' Affairs
The Honorable Mike Bost, Chairman, House Committee on Veterans' Affairs
The Honorable Mark Takano, Ranking Member, House Committee on Veterans' Affairs

AUTHORITIES AND SOURCE MATERIALS

[1] Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics Act of 2022, Pub. L. No. 117-168, § 405, 136 Stat. 1759, 1783–84 (Aug. 10, 2022). https://www.govinfo.gov/link/plaw/117/public/168

[2] 38 U.S.C. § 1117, Compensation for disabilities occurring in Persian Gulf War veterans (current codification). https://www.govinfo.gov/link/uscode/38/1117

[3] Electronic Code of Federal Regulations, 38 C.F.R. § 3.317, Compensation for certain disabilities occurring in Persian Gulf veterans (current through Sept. 1, 2026; accessed Sept. 2, 2026). https://www.ecfr.gov/current/title-38/chapter-I/part-3/subpart-A/subject-group-ECFR39056aee4e9ff13/section-3.317

[4] Department of Veterans Affairs, VA Adjudication Regulations for Disability or Death Benefit Claims Based on Toxic Exposure, 89 Fed. Reg. 79,815, 79,821–22, 79,828 (proposed Oct. 1, 2024), RIN 2900-AR75. https://www.federalregister.gov/documents/2024/10/01/2024-21852/va-adjudication-regulations-for-disability-or-death-benefit-claims-based-on-toxic-exposure

[5] Office of Information and Regulatory Affairs, 2026 Unified Agenda, RIN 2900-AR75, Updating VA Adjudication Regulations for Disability or Death Benefit Claims Based on Toxic Exposure (accessed Sept. 2, 2026). https://www.reginfo.gov/public/do/eAgendaViewRule?RIN=2900-AR75&pubId=202510

[6] Department of Veterans Affairs, Presumptive Service Connection for Respiratory Conditions Due to Exposure to Fine Particulate Matter, 88 Fed. Reg. 60,336, 60,343 (Sept. 1, 2023). https://www.govinfo.gov/content/pkg/FR-2023-09-01/html/2023-18979.htm

[7] Adam Gramegna, Gulf War Veterans Face Dec. 31 VA Disability Deadline. Here's What It Actually Means, Military.com (Aug. 31, 2026). https://www.military.com/gulf-war-veterans-dec-31-va-disability-deadline-heres-what-it-actually-means

[8] Administrative Procedure Act, 5 U.S.C. §§ 553(e), 555(b), 555(e); 38 U.S.C. § 501(a). https://www.govinfo.gov/link/uscode/5/553

[9] Veterans for Common Sense, The PACT Act – What Does It Do? (Aug. 12, 2022). https://veteransforcommonsense.org/2022/08/12/the-pact-act-what-does-it-do/