

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 4

RIN 2900-AI46

### Schedule for Rating Disabilities: Cold Injuries

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

**SUMMARY:** This document proposes to amend the Department of Veterans Affairs (VA) Schedule for Rating Disabilities (38 CFR part 4) by revising the evaluation criteria for frozen feet. The intended effect of this amendment is to provide evaluation criteria based on current medical knowledge about the long-term effects of cold injury that can be applied to any part of the body affected by cold injury.

**DATES:** Comments must be received by VA on or before May 27, 1997.

**ADDRESSES:** Mail or hand deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1154, Washington, DC 20420. Comments should indicate that they are in response to "RIN 2900-AI46." All written comments received will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

**FOR FURTHER INFORMATION CONTACT:** Carol McBrine, M.D., Consultant, Regulations Staff (213A), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420, (202) 273-7230.

**SUPPLEMENTARY INFORMATION:** Disability due to frozen feet is currently evaluated under diagnostic code (DC) 7122 in 38 CFR 4.104, the section of VA's Schedule for Rating Disabilities that is titled "Schedule of ratings—cardiovascular

system." Because much more is now known about the long-term effects of cold injury than when these criteria were established, we propose to update the criteria to assure that they are consistent with modern medical knowledge and encompass the broad range of residuals that may result from cold injury. Since cold injuries may affect parts of the body other than the feet, particularly the hands, nose, and ears, we propose to retitle DC 7122 "Cold injury, residuals of" to indicate that it may be used to evaluate any cold injury.

The current evaluation criteria for frozen feet provide three levels of evaluation, with separate evaluations at each level, for unilateral and bilateral involvement. The evaluations, which range from 10 to 50 percent, are based on the presence of chilblains, swelling, tenderness, and redness, and there are subjective indicators, e.g., "mild" symptoms, "persistent severe" symptoms, at each level. A major goal of the overall revision of VA's rating schedule that is underway is to provide more objective evaluation criteria. We therefore propose to provide criteria that are both more objective and more consistent with the current state of medical knowledge.

We propose new criteria based on the presence of pain, numbness, cold sensitivity, or arthralgia for a 10-percent evaluation; the same symptoms plus tissue loss, nail abnormalities, color changes, locally impaired sensation, hyperhidrosis, or X-ray abnormalities such as osteoporosis, subarticular punched out lesions, and osteoarthritis for a 20-percent evaluation and the same symptoms plus two or more of the following: Tissue loss, nail abnormalities, color changes, locally impaired sensation, hyperhidrosis, or X-ray abnormalities (same as above) for a 30-percent evaluation. These are the most common long-term residuals of cold injury ("Harrison's Principles of Internal Medicine" 2199 (Jean D. Wilson, M.D. et al. eds., 12th ed. 1991)), and the proposed criteria should assure consistent evaluations of veterans with cold injury.

In the current schedule, a note under DC 7122 advises that higher ratings may be warranted for amputation of toes. We propose to revise the note to indicate that there are other conditions besides amputations, such as squamous cell

carcinoma at the site of a cold injury scar, or peripheral neuropathy, that warrant separate evaluation.

In addition to revising the criteria themselves, and in light of the fact that under the revised code, parts of the body other than the feet may be evaluated, we propose to revise the method of determining an overall evaluation when more than one body part is affected. Rather than providing specific evaluations for unilateral and bilateral evaluations, we propose to add a second note following DC 7122 directing that each affected part (hand, foot, ear, nose) be evaluated separately and the ratings combined. This will not only allow separate evaluations for affected parts other than the feet but will, unlike the current schedule, provide a means of appropriately evaluating each of paired parts when they are not equally affected.

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. The reason for this certification is that this amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

This regulatory amendment has been reviewed by the Office of Management and Budget under the provisions of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993.

The Catalog of Federal Domestic Assistance program numbers are 64.104 and 64.109.

### List of Subjects in 38 CFR Part 4

Disability benefits, Individuals with disabilities, Pensions, Veterans.

Approved: December 17, 1996.

**Jesse Brown,**

*Secretary of Veterans Affairs.*

For the reasons set out in the preamble, 38 CFR part 4, subpart B, is proposed to be amended as set forth below:

**PART 4—SCHEDULE FOR RATING DISABILITIES****Subpart B—Disability Ratings**

1. The authority citation for part 4 continues to read as follows:

**Authority:** 38 U.S.C. 1155.

2. Section 4.104 is amended by revising diagnostic code 7122 and adding a new authority citation at the end of the section, to read as follows:

**§ 4.104 Schedule of ratings—cardiovascular system.**

\* \* \* \* \*

	Rat- ing
7122 Cold injury, residuals of:	
With pain, numbness, cold sensitivity, or arthralgia plus two or more of the following: Tissue loss, nail abnormalities, color changes, locally impaired sensation, hyperhidrosis, X-ray abnormalities (osteoporosis, sub-articular punched out lesions, or osteoarthritis) of affected parts ..	30
With pain, numbness, cold sensitivity, or arthralgia plus tissue loss, nail abnormalities, color changes, locally impaired sensation, hyperhidrosis, or X-ray abnormalities (osteoporosis, sub-articular punched out lesions, or osteoarthritis) of affected parts ..	20
With pain, numbness, cold sensitivity, or arthralgia .....	10

**Note (1):** Amputations of fingers or toes, and complications such as squamous cell carcinoma at the site of a cold injury scar or peripheral neuropathy should be separately evaluated under other diagnostic codes.

**Note (2):** Evaluate each affected part (hand, foot, ear, nose) separately and combine the ratings, if appropriate, in accordance with 38 CFR 4.25.

\* \* \* \* \*

(Authority: 38 U.S.C. 1155)

[FR Doc. 97-7833 Filed 3-27-97; 8:45 am]

BILLING CODE 8320-01-P

**POSTAL SERVICE****39 CFR Parts 111 and 502****Manufacture, Distribution, and Use of Postal Security Devices and Information Based Indicia**

**AGENCY:** Postal Service.

**ACTION:** Proposed rule.

**SUMMARY:** This proposal would add new sections to the Domestic Mail Manual (DMM) and title 39, Code of Federal Regulations (CFR), to reflect policies and regulations pertaining to the

Information Based Indicia Program (IBIP). The proposal supports the IBIP technical specifications published on July 2, 1996, in the **Federal Register** (61 FR 34460). The standards and regulations for the products/devices are in some ways similar to those for postage meters but are to be contained in separate parts of the DMM and the CFR. The DMM pertains to customer requirements and product/service provider support of those customers, whereas the CFR contains requirements such as authorization to manufacture and distribute, product testing and approval, security standards, and financial arrangements.

**DATES:** Comments must be received on or before April 28, 1997.

**ADDRESSES:** Written comments should be mailed or delivered to the Manager, Retail Systems and Equipment, Room 8430, 475 L'Enfant Plaza SW, Washington, DC 20260-6807. Copies of all written comments will be available at the above address for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Nicholas S. Stankosky, (202) 268-5311.

**SUPPLEMENTARY INFORMATION:** The Information Based Indicia Program (IBIP) involves the development of new technology to produce forms of postage evidencing through the use of two-dimensional barcodes and cryptographic services to produce postage from personal computers. This technology will support Postal Service efforts to reduce fraud and the potential for misuse associated with current mechanical postage meters. In addition, IBIP provides a convenient access to postage and an opportunity for customer defined "value added" services.

There are five primary elements to IBIP. The indicia includes:

- Town circle information.
- Postage amount applied.
- Device identifier.
- 2 dimensional bar code.
- Optional advertising art.

The postal security device (PSD) performs core security functions such as digital signature generation and verification and the management of registers. The host system controls the customers infrastructure in device authorization, device audit, postage resetting and, together with the PSD, produces the indicia.

The key management component employs a public-key certificate based digital signature that features a data integrity service and provides the means to validate the indicium. Finally, the product/service provider infrastructure provides support for all IBIP functions

including licensing, PSD production and life cycle support, and provides an interface with both the customer and the Postal Service infrastructure. The Postal Service interface involves the issuance of licenses, updating licensee information, product/device inventory and tracking, resetting support and account reconciliation, lost and stolen/irregularity monitoring, and the assignment of digital certificates.

In this proposal, the Postal Service has taken into consideration and evaluated applicable comments received as a result of the July 2 **Federal Register** notice, the July 19 public meeting on technical specifications, and the September 25 public meeting on policy and regulations. The following is a summary of the Postal Service's position on the general interest IBIP policy issues:

- Any proposed product or device must be submitted for approval under proposed draft IBIP interim product submission procedures (Jan 8, 1997 **Federal Register**). These procedures include specifics on letters of intent, nondisclosure agreements, the product/service provider's concept of operations and infrastructure, documentation requirements, product submissions, and most testing activities.

- In an attempt to use the existing Postal Service infrastructure as much as possible, customer licensing and product/device tracking will be included in the Centralized Meter Licensing System currently under development. A license must be obtained prior to the initialization or use of a device. A customer already licensed to use postage meters will not have to apply again for an additional license. The Postal Service will simply update the customer's file.

- The terms "manufacturer" and "vendor" are no longer referenced in IBIP. These have been replaced by the more appropriate term "product/service provider", also known simply as "Provider."

- The PSD must be leased by the product/service provider but customers may purchase the software under two circumstances. The first is in an open system where the PSD operates independently of the software. The second is in a closed system where the meter is rendered nonfunctional for printing postage without the PSD. The Postal Service will not offer PSDs to customers.

- Until the Postal Service has captured historical data on reliability and security, the total amount of postage in a descending register will be limited to \$500. Ascending registers must show all postage printed over time.