

Dated: July 31, 2000.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison  
Officer, Department of Defense.*

[FR Doc. 00-19860 Filed 8-4-00; 8:45 am]

BILLING CODE 5001-10-F

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### 36 CFR Part 293

#### Wilderness—Primitive Areas; Fixed Anchors in Wilderness

**AGENCY:** Forest Service, USDA.

**ACTION:** Negotiated rulemaking committee meeting.

**SUMMARY:** The Secretary of Agriculture has established a negotiated rulemaking committee to develop recommendations for a proposed rule for the placement, use, and removal of fixed anchors used for recreational rock climbing purposes in congressionally designated wilderness areas administered by the Forest Service. The Fixed Anchors in Wilderness Negotiated Rulemaking Advisory Committee is composed of individuals representing a cross section of interests with a definable stake in the outcome of the proposed rule. The Committee has been established in accordance with the provisions of the Federal Advisory Committee Act and is engaged in the process of rulemaking pursuant to the provisions of the Negotiated Rulemaking Act. The Committee has held meetings in June and July and will hold the third meeting in August. All meetings of the committee are open to public attendance.

**DATE:** The next meeting of the advisory committee will be held in Golden, Colorado, on August 30-31. The meeting is scheduled from 8 a.m. to 5:30 p.m. on the first day and from 8 a.m. to 3:30 p.m. on the second day.

**ADDRESSES:** The advisory committee meeting will be held in the auditorium of the Rocky Mountain Regional Office, Forest Service, USDA, 740 Simms St., Golden, Colorado.

**FOR FURTHER INFORMATION CONTACT:** Jerry Stokes, Wilderness Program Manager, Recreation, Heritage, and Wilderness Resources Staff, (202) 205-0925.

Dated: August 1, 2000.

**James R. Furnish,**

*Deputy Chief, National Forest System.*

[FR Doc. 00-19903 Filed 8-4-00; 8:45 am]

BILLING CODE 3410-11-M

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 4

RIN 2900-AK12

#### Schedule for Rating Disabilities: Disabilities of the Liver

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to amend the Department of Veterans Affairs (VA) Schedule for Rating Disabilities by revising the portion of the Digestive System that addresses disabilities of the liver. The intended effect of this action is to update this portion of the rating schedule to ensure that it uses current medical terminology and unambiguous criteria, and that it reflects medical advances that have occurred since the last review.

**DATES:** Comments must be received by VA on or before October 6, 2000.

**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; or fax comments to (202) 273-9289; or e-mail comments to "OGCRegulations@mail.va.gov". Comments should indicate that they are submitted in response to "RIN 2900-AK12." All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

**FOR FURTHER INFORMATION CONTACT:**

Caroll McBrine, M.D., Consultant, Policy and Regulations Staff (211A), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Ave., NW, Washington, DC 20420, (202) 273-7230.

**SUPPLEMENTARY INFORMATION:** This document proposes to amend the Department of Veterans Affairs (VA) Schedule for Rating Disabilities by revising that portion of the Digestive System that addresses disabilities of the liver. VA published an advance notice of proposed rulemaking in the **Federal Register** on May 2, 1991 (56 FR 20168), advising the public that it was preparing to revise and update the schedule for rating disabilities of the digestive system. This regulation proposes to amend only 38 CFR 4.112 and certain diagnostic codes in 38 CFR 4.114, in order to address hepatitis C and its sequelae, and to update evaluation criteria for other liver disabilities.

Extensive new medical information has recently become available about hepatitis C, a liver disease that occurs frequently in veterans and at a prevalence rate which is likely higher than in the civilian population. To address hepatitis C and related liver disabilities adequately requires that we update the entire portion of the digestive system that pertains to liver disease.

In response to the advance notice of proposed rulemaking, we received comments from the American Legion and from several VA employees. One commenter addressed liver disabilities, suggesting, among other things, that we add hepatitis A, B, and C, and chronic inflammation of the liver and its residuals, to the rating schedule. The same commenter also suggested that other residuals need to be addressed and that cirrhosis is not the only residual of chronic hepatitis. Another commenter suggested that we address liver transplants in the revised schedule. We propose to address each of these suggestions from commenters in this revision, as discussed below.

In addition to publishing an advance notice, VA contracted with an outside consultant to recommend changes to the digestive system sections of the rating schedule to ensure that the schedule uses current medical terminology and unambiguous criteria, and that it reflects medical advances that have occurred since the last review. The consultant convened a panel of non-VA specialists to review that portion of the rating schedule dealing with the digestive system and to make recommendations for changes. The comments of the consultants on liver disabilities are incorporated into the discussions below.

Current § 4.112, "Weight loss," addresses in general terms the issues of when weight loss is significant or important, how it is determined, and what is meant by inability to gain weight. Upon the advice of our contract consultants, we propose to make this information more specific, and therefore more useful for evaluation purposes, by stating that the term "substantial weight loss," for purposes of evaluating conditions in § 4.114, means a loss of greater than 20 percent of the individual's baseline weight, sustained for three months or longer; that the term "minor weight loss" means a loss of 10 to 20 percent of the individual's baseline weight, sustained for three months or longer; and that the term "inability to gain weight" means "substantial" (rather than the current term "significant") weight loss with inability to regain it despite appropriate therapy. In view of these changes, we

propose to remove the current reference to standard age, height, and weight tables, since it is more accurate to compare weight after onset of the illness with the individual's own usual, baseline, or premorbid weight, rather than with the "predicted average weight for height and age," which may never have applied to that individual.

Injury of the liver (diagnostic code 7311) is currently evaluated under the criteria for adhesions of the peritoneum (diagnostic code 7301). However, our specialist consultants noted that injury to the liver may result in abnormalities other than adhesions, such as damage to the liver parenchyma. We, therefore, propose to add the option of evaluating as cirrhosis of the liver (diagnostic code 7312) or chronic liver disease without cirrhosis (diagnostic code 7345) (see discussion below), depending on the specific residuals. These criteria would better encompass the possible residuals of liver injury. Our consultants also suggested that we add the phrase "including surgery" to the title of this diagnostic code. However, the current title is not restrictive as to what types of injury are included, and we, therefore, do not propose to adopt the suggested change.

Diagnostic code 7312 is currently titled "liver, cirrhosis of." We propose to broaden the scope of this code to include primary biliary cirrhosis and the cirrhotic phase of sclerosing cholangitis, two conditions that are not included in the current rating schedule but that are related to cirrhosis of the liver and have similar disabling effects. We propose to revise the title accordingly to "Cirrhosis of the liver, primary biliary cirrhosis, or cirrhotic phase of sclerosing cholangitis." Cirrhosis of the liver is currently evaluated at 100, 70, 50, or 30 percent, based on ascites, recurrent hemorrhage from esophageal varices, enlargement of the liver, muscle wasting, loss of strength, dilated abdominal veins, dyspepsia, weight loss, and impairment of health. The evaluation criteria rely on subjective terms, such as "pronounced," "severe," "moderately severe," and "moderate," and on the frequency of "tapping" (an outdated term) for ascites. We propose to delete the subjective and outdated terms, but to retain the same evaluation levels, add a 10 percent evaluation level, and base the evaluation on similar, but updated, criteria. We propose to base evaluation under diagnostic code 7312 on the presence or history of ascites (an accumulation of fluid in the abdominal cavity), hemorrhage from varices (enlarged, tortuous veins at the lower end of the esophagus) or portal

gastropathy (erosive gastritis), hepatic encephalopathy, portal hypertension, splenomegaly (enlarged spleen), jaundice, and emaciation (or lesser degrees of weight loss), as well as on symptoms of generalized weakness, anorexia (lack of appetite), abdominal pain, and malaise (a vague feeling of bodily discomfort). These are all signs and symptoms of cirrhosis that occur at different stages of the disease. Ascites, hemorrhage, and hepatic encephalopathy are all major complications that usually occur only in advanced stages of cirrhosis, when there is portal hypertension (elevated blood pressure in the veins of the portal system, which may occur with severe liver disease) ("The Merck Manual," 374, 17th ed., 1999). We propose to assign a 100-percent evaluation if ascites, hepatic encephalopathy, or hemorrhage from varices or portal gastropathy is present and refractory (not readily yielding to treatment or unresponsive) to treatment, or if there is persistent jaundice, generalized weakness, and significant weight loss. We propose to assign a 70-percent evaluation if there is a history of two or more episodes of ascites, hepatic encephalopathy, or hemorrhage from varices or portal gastropathy, but with periods of remission between attacks, and a 50-percent evaluation if there is a history of one episode of ascites, hepatic encephalopathy, or hemorrhage from varices or portal gastropathy. We propose to assign a 30-percent evaluation if there is portal hypertension and splenomegaly, with weakness, anorexia, abdominal pain, malaise, and at least minor weight loss. We also propose to add a 10-percent evaluation level, to be assigned if there is weakness, anorexia, abdominal pain, and malaise. This would provide an appropriate evaluation level for individuals who have symptoms due to cirrhosis but do not meet the criteria for a 30-percent evaluation, as might occur in the early stages of the disease. These criteria are similar to those suggested by our consultants, except that we propose to exclude subjective terms such as "pronounced" and "mild." We also propose, to assure consistency in application of these criteria, to add a note stating that evaluation under this diagnostic code requires documentation of cirrhosis (by biopsy or imaging) and abnormal liver function tests, which are much more accurate methods for diagnosing cirrhosis. The proposed criteria are expressed in current medical terminology, are objective enough to assure consistent evaluations, and

provide a broad range of evaluation percentages.

Residuals of liver abscess, diagnostic code 7313, are currently evaluated at 20 or 30 percent, based on whether there are "moderate" or "severe" symptoms. We propose to delete diagnostic code 7313 because our consultants advised us that abscesses of the liver now resolve without residual disability through the use of modern antibiotics and drainage techniques.

Diagnostic code 7343 is currently titled "new growths, malignant, exclusive of skin growths." We propose to change "new growths, malignant" to "malignant neoplasms," because that is current medical terminology, and to add "of the digestive system" to the title, because this would more clearly indicate that this code refers only to malignant neoplasms of this system. Under current diagnostic code 7343, a 100-percent evaluation is assigned, and then continued for one year following cessation of surgical, X-ray or antineoplastic chemotherapy. Rating is made on residuals at that time if there has been no local recurrence or metastases. In order to assure that an evaluation will be based on actual medical findings rather than on a regulatory assumption that there has been improvement, we are proposing to continue the total evaluation under this code indefinitely after treatment is discontinued, and to examine the veteran six months after treatment ends. If the results of this or any subsequent examination warrant a reduction in evaluation, the reduction would be implemented under the provisions of 38 CFR 3.105(e), which require a 60-day notice before VA reduces an evaluation and an additional 60-day notice before the reduced evaluation takes effect. The proposed revision would not only require a current examination to assure that all residuals are documented, but also offer the veteran more contemporaneous notice of any proposed action and expand the veteran's opportunity to present evidence showing that the proposed action should not be taken. If local recurrence or metastasis is not present, evaluation would be made on residuals. This change would provide criteria similar to those used in the evaluation of malignant neoplasms in other sections of the rating schedule that have recently been revised. (See, for example, diagnostic code 7528, malignant neoplasms of the genitourinary system, in 38 CFR 4.115b, and diagnostic code 7627, malignant neoplasms of gynecological system or breast, in 38 CFR 4.116.)

We also propose to change the title of DC 7344 from "new growths, benign" to "benign neoplasms," in accordance with current medical usage, and to revise the instructions to make clear that this condition is to be evaluated under a diagnostic code which reflects the resulting predominant disability or residual.

Diagnostic code 7345 is currently titled "infectious hepatitis." This is the former name for hepatitis A, the first type of viral hepatitis that was identified. Hepatitis A is a type of acute infectious disease that plays no role in the production of chronic hepatitis or cirrhosis (Merck, 377). For that reason, hepatitis A is so unlikely to present as chronic liver infection warranting service connection in veterans that it does not warrant a specific diagnostic code. We, therefore, propose to remove the title "infectious hepatitis." There are, however, a number of other conditions that may result in chronic liver disease without cirrhosis that are not included in the current schedule, including chronic viral hepatitis B and C, chronic active hepatitis, autoimmune hepatitis, hemochromatosis, and drug-induced hepatitis. These conditions have manifestations that are similar enough to allow their evaluation under a single set of criteria. We, therefore, propose to retitle diagnostic code 7345 "chronic liver disease without cirrhosis (including hepatitis B, chronic active hepatitis, autoimmune hepatitis, hemochromatosis, drug induced hepatitis, etc., but excluding bile duct disorders and hepatitis C)." We are proposing to exclude bile duct disorders from this category, although they are sometimes closely related to liver disorders, because they are addressed under other diagnostic codes in § 4.114. We propose to include hepatitis B infection (formerly called serum hepatitis), another type of viral hepatitis, in this group of conditions because, unlike hepatitis A infection, which we propose to exclude from the group, it does result in chronic liver infection in up to ten percent of cases.

A separate diagnostic code, 7354, is being proposed for hepatitis C, a type of viral hepatitis that was not identified until 1989, which can also result in chronic liver infection, cirrhosis, and malignancy of the liver. We are proposing to provide a separate diagnostic code for hepatitis C because there are still many unanswered questions about the disease, and public health epidemiologic concerns make it desirable for us to be able to track cases for statistical purposes. However, we propose to provide evaluation criteria for diagnostic code 7354 which are

identical to those we are proposing for diagnostic code 7345, since the effects are similar. Until the hepatitis C virus was identified, hepatitis C infection was often categorized as "non-A, non-B hepatitis," a term used for any type of hepatitis that could not be identified as one of the known types (A or B). For that reason, we propose to add non-A, non-B hepatitis to the title, as a condition to be evaluated under diagnostic code 7354. We also propose to require that there be serologic evidence of hepatitis C infection and that the signs and symptoms listed in the criteria be due to hepatitis C infection (because some are nonspecific findings that could be from a variety of causes).

Evaluations under diagnostic code 7345 are currently based on the extent of liver damage, the severity of gastrointestinal symptoms, the frequency and duration of disabling episodes of symptoms, whether there are symptoms of fatigue, mental depression, or anxiety, and whether dietary restriction, rest therapy, or other therapeutic measures are required. We propose to base the evaluation for diagnostic codes 7345 and 7354 in part on the total duration of incapacitating episodes resulting from the manifestations and symptoms of these conditions, and to define an incapacitating episode in notes under diagnostic codes 7345 and 7354 as a period of acute signs and symptoms severe enough to require bed rest and treatment by a physician. This is the same definition we provided in a notice of proposed rulemaking published in the **Federal Register** on February 24, 1997 (62 FR 8204) that would revise the evaluation criteria for intervertebral disc syndrome (diagnostic code 5293), another condition that would be evaluated on the basis of the total duration of incapacitating episodes. We propose to change the evaluation levels under 7345 from 100, 60, 30, 10, and zero percent to 100, 60, 40, 20, 10, and zero percent, the same levels that we proposed for the evaluation of intervertebral disc syndrome (except that we did not propose a zero-percent level for intervertebral disc syndrome), in order to maintain internal consistency in the rating schedule for conditions evaluated on the basis of the total duration of incapacitating episodes.

A zero-percent evaluation is currently assigned under diagnostic code 7345 if hepatitis is "healed, nonsymptomatic." We propose to retain the zero-percent level under diagnostic code 7345 and add it under diagnostic code 7354 for nonsymptomatic disease, but to remove

the term "healed," because chronic liver disease may in some cases be nonsymptomatic even when not healed, and would still warrant no more than a zero-percent evaluation. Retaining a zero-percent evaluation level for chronic liver disease without cirrhosis would assure an appropriate evaluation of the condition in the absence of symptoms. Ten percent of those who are infected with the hepatitis B virus go on to develop chronic liver infection, and 75–85 percent of those infected with the hepatitis C virus develop chronic liver infection. However, tests to determine whether chronic liver infection is present when there is evidence of a past history of viral hepatitis are not routine and standardized. We are, therefore, proposing that a zero-percent evaluation be assigned to all nonsymptomatic veterans who have serologic evidence of having had a hepatitis B or C virus infection in order to assure appropriate handling of later-developing sequelae of hepatitis B and C.

According to our consultants, the most common symptom of chronic liver disease is fatigue. We, therefore, propose to list fatigue, malaise, nausea, vomiting, anorexia, arthralgia, and right upper quadrant pain as symptoms of chronic liver disease that might characterize an incapacitating episode. These are all symptoms of chronic liver disease (Merck, 354–385) and are more explicit than the indefinite language, such as "gastrointestinal disturbance" and "marked symptoms," that our consultants suggested. We propose to assign a 100-percent evaluation if there are near-constant incapacitating symptoms (such as fatigue, malaise (a vague feeling of bodily discomfort), nausea, vomiting, anorexia (lack of appetite), arthralgia (joint pain), and right upper quadrant pain); a 60-percent evaluation if there are incapacitating episodes having a total duration at least six weeks during the past 12-month period, but not occurring constantly, or there is daily fatigue, malaise, and anorexia, with substantial weight loss (or other indication of malnutrition), and hepatomegaly (enlarged liver); a 40-percent evaluation if there are incapacitating episodes having a total duration of at least four weeks, but less than six weeks, during the past 12-month period, or there is daily fatigue, malaise, and anorexia, with minor weight loss and hepatomegaly; a 20-percent evaluation if there are incapacitating episodes having a total duration of at least two weeks, but less than four weeks, during the past 12-month period, or there is daily fatigue, malaise, and anorexia, but without

weight loss or hepatomegaly; a 10-percent evaluation if there are incapacitating episodes having a total duration of at least one week, but less than two weeks, during the past 12-month period, or there is intermittent fatigue, malaise, and anorexia; and a zero-percent evaluation if the condition is nonsymptomatic. These criteria encompass the usual disabling effects of this group of diseases and are in keeping with current medical information. In addition, they are more objective than the current criteria (which include such subjective terms as "minimal," "moderate," "marked," and "mild") and would thus help assure consistency of evaluations.

Although our consultants did not suggest that we remove "depression" and "anxiety" as criteria under diagnostic code 7345, we propose to do so. They are not prominent symptoms of chronic liver disease. If a mental disorder is medically determined to be secondary to liver disease, it would be separately evaluated under the mental disorders portion of the rating schedule.

In order to clarify the method of evaluation of the major sequelae of chronic liver disease, we propose to add a note under diagnostic codes 7345 and 7354 directing that sequelae of these conditions, such as cirrhosis or malignancy of the liver, be evaluated under an appropriate diagnostic code, as long as the same signs and symptoms are not used as the basis for evaluation under both 7354 and under another diagnostic code. (See 38 CFR 4.14.) We propose to add a second note under diagnostic codes 7345 and 7354 defining an incapacitating episode, as discussed above, and a third note under diagnostic code 7345 stating that hepatitis B infection must be confirmed by serologic testing in order to evaluate it under diagnostic code 7345. The criteria for the evaluation of hepatitis C under diagnostic code 7354 similarly require that there be serologic evidence of hepatitis C infection for evaluation under that code. This will enable VA to accurately determine which type of hepatitis a veteran has.

The ability to perform liver transplants is a significant medical advance that is not reflected in the current rating schedule. We, therefore, propose to add diagnostic code 7351 for liver transplants and to provide a 100-percent evaluation for an indefinite period from the date of hospital admission for transplant surgery, with a mandatory VA examination one year following hospital discharge. This would allow a reasonable period of time to assess whether rejection of the transplant or infection will occur, and

for recovery from the surgery. We propose to provide instructions that the appropriate disability rating shall then be determined based on the examination, and subject to the provisions of 38 CFR 3.105(e). 38 CFR 3.105(e) requires a 60-day notice before VA reduces an evaluation and an additional 60-day notice before the reduced evaluation takes effect. The revision would not only require a current examination to assure that all residuals are documented, but also offer the veteran more contemporaneous notice of any proposed action and expand the veteran's opportunity to present evidence showing that the proposed action should not be taken. We propose to require a minimum evaluation of 30 percent following transplant, because of the need for long-term immunosuppressive medication and its associated problems. The proposed evaluation criteria are similar to those provided in 38 CFR 4.115b for evaluation following kidney transplant and in 38 CFR 4.104 for evaluation following cardiac transplant.

The Secretary hereby certifies that the adoption of the proposed rule would 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. This action would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

This proposed rule has been reviewed by the Office of Management and Budget under the provisions of Executive Order 12866.

The Unfunded Mandates Reform Act requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of \$100 million or more in any given year. This rule would have no consequential effect on State, local, or tribal governments.

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: April 13, 2000.  
**Togo D. West, Jr.**,  
*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**

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

**Authority:** 38 U.S.C. 1155, unless otherwise noted.

2. Revise § 4.112 to read as follows:

**§ 4.112 Weight loss.**

For purposes of evaluating conditions in § 4.114, the term "substantial weight loss" means a loss of greater than 20 percent of the individual's baseline weight, sustained for three months or longer; and the term "minor weight loss" means a weight loss of 10 to 20 percent of the individual's baseline weight, sustained for three months or longer. The term "inability to gain weight" means that there has been substantial weight loss with inability to regain it despite appropriate therapy.

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

3. Section 4.114 is amended by:

A. Revising diagnostic codes 7311, 7312, 7343, 7344, and 7345.

B. Adding diagnostic codes 7351 and 7354.

C. Adding a new authority citation at the end of the section.

The revisions and additions read as follows:

**§ 4.114 Schedule of ratings—Digestive system.**

\* \* \* \* \*

	Rating
7311 Residuals of injury of the liver. Depending on the specific residuals, evaluate as adhesions of peritoneum (diagnostic code 7301), cirrhosis of liver (diagnostic code 7312), or chronic liver disease without cirrhosis (diagnostic code 7345).	100
7312 Cirrhosis of the liver, primary biliary cirrhosis, or cirrhotic phase of sclerosing cholangitis: With one of the following refractory to treatment: ascites, hepatic encephalopathy, or hemorrhage from varices or portal gastropathy (erosive gastritis), or; with persistent jaundice, generalized weakness, and substantial weight loss .....	100

	Rating		Rating		Rating
History of two or more episodes of ascites, hepatic encephalopathy, or hemorrhage from varices or portal gastropathy (erosive gastritis), but with periods of remission between attacks .....	70	Incapacitating episodes (with symptoms such as fatigue, malaise, nausea, vomiting, anorexia, arthralgia, and right upper quadrant pain) having a total duration of at least six weeks during the past 12-month period, but not occurring constantly, or; with daily fatigue, malaise, and anorexia, with substantial weight loss (or other indication of malnutrition), and hepatomegaly .....	60	NOTE (1): Evaluate sequelae, such as cirrhosis or malignancy of the liver, under an appropriate diagnostic code, but do not use the same signs and symptoms as the basis for evaluation under DC 7354 and under a diagnostic code for sequelae. (See §4.14.).	
History of one episode of ascites, hepatic encephalopathy, or hemorrhage from varices or portal gastropathy (erosive gastritis) .....	50	Incapacitating episodes (with symptoms such as fatigue, malaise, nausea, vomiting, anorexia, arthralgia, and right upper quadrant pain) having a total duration of at least four weeks, but less than six weeks, during the past 12-month period, or; with daily fatigue, malaise, and anorexia, with minor weight loss and hepatomegaly .....	40	NOTE (2): For purposes of evaluating conditions under diagnostic code 7345, an incapacitating episode means a period of acute signs and symptoms severe enough to require bed rest and treatment by a physician.	
Portal hypertension and splenomegaly, with weakness, anorexia, abdominal pain, malaise, and at least minor weight loss .....	30			NOTE (3): Hepatitis B infection must be confirmed by serologic testing in order to evaluate it under diagnostic code 7345.	
Symptoms such as weakness, anorexia, abdominal pain, and malaise .....	10			* * * * *	
NOTE: For evaluation under diagnostic code 7312, documentation of cirrhosis (by biopsy or imaging) and abnormal liver function tests must be present.				7351 Liver transplant.	
* * * * *		Incapacitating episodes (with symptoms such as fatigue, malaise, nausea, vomiting, anorexia, arthralgia, and right upper quadrant pain) having a total duration of at least two weeks, but less than four weeks, during the past 12-month period, or; with daily fatigue, malaise, and anorexia (without weight loss or hepatomegaly), requiring dietary restriction or continuous medication .....	20	For an indefinite period from the date of hospital admission for transplant surgery .....	100
7343 Malignant neoplasms of the digestive system, exclusive of skin growths .....	100	Incapacitating episodes (with symptoms such as fatigue, malaise, nausea, vomiting, anorexia, arthralgia, and right upper quadrant pain) having a total duration of at least one week, but less than two weeks, during the past 12-month period, or; intermittent fatigue, malaise, and anorexia	10	Minimum .....	30
NOTE: A rating of 100 percent shall continue beyond the cessation of any surgical, X-ray, antineoplastic chemotherapy or other therapeutic procedure. Six months after discontinuance of such treatment, the appropriate disability rating shall be determined by mandatory VA examination. Any change in evaluation based upon that or any subsequent examination shall be subject to the provisions of §3.105(e) of this chapter. If there has been no local recurrence or metastasis, rate on residuals.		Nonsymptomatic .....	0	NOTE: A rating of 100 percent shall be assigned as of the date of hospital admission for transplant surgery and shall continue. One year following discharge, the appropriate disability rating shall be determined by mandatory VA examination. Any change in evaluation based upon that or any subsequent examination shall be subject to the provisions of §3.105(e) of this chapter.	
7344 Benign neoplasms, exclusive of skin growths. Evaluate under an appropriate diagnostic code, depending on the predominant disability or the specific residuals after treatment.				7354 Hepatitis C (or non-A, non-B hepatitis).	
7345 Chronic liver disease without cirrhosis (including hepatitis B, chronic active hepatitis, autoimmune hepatitis, hemochromatosis, drug-induced hepatitis, etc., but excluding bile duct disorders and hepatitis C).				With serologic evidence of hepatitis C infection and the following signs and symptoms due to hepatitis C infection:	
Near-constant incapacitating symptoms (such as fatigue, malaise, nausea, vomiting, anorexia, arthralgia, and right upper quadrant pain) .....	100			Near-constant incapacitating symptoms (such as fatigue, malaise, nausea, vomiting, anorexia, arthralgia, and right upper quadrant pain) .....	100
				Incapacitating episodes (with symptoms such as fatigue, malaise, nausea, vomiting, anorexia, arthralgia, and right upper quadrant pain) having a total duration of at least six weeks during the past 12-month period, but not occurring constantly, or; with daily fatigue, malaise, and anorexia, with substantial weight loss (or other indication of malnutrition), and hepatomegaly .....	60

Rating	
<p>Incapacitating episodes (with symptoms such as fatigue, malaise, nausea, vomiting, anorexia, arthralgia, and right upper quadrant pain) having a total duration of at least four weeks, but less than six weeks, during the past 12-month period, or; with daily fatigue, malaise, and anorexia, with minor weight loss and hepatomegaly .....</p> <p>Incapacitating episodes (with symptoms such as fatigue, malaise, nausea, vomiting, anorexia, arthralgia, and right upper quadrant pain) having a total duration of at least two weeks, but less than four weeks, during the past 12-month period, or; with daily fatigue, malaise, and anorexia (without weight loss or hepatomegaly), requiring dietary restriction or continuous medication .....</p> <p>Incapacitating episodes (with symptoms such as fatigue, malaise, nausea, vomiting, anorexia, arthralgia, and right upper quadrant pain) having a total duration of at least one week, but less than two weeks, during the past 12-month period, or; intermittent fatigue, malaise, and anorexia</p> <p>Nonsymptomatic .....</p> <p>NOTE (1): Evaluate sequelae, such as cirrhosis or malignancy of the liver, under an appropriate diagnostic code, but do not use the same signs and symptoms as the basis for evaluation under DC 7354 and under a diagnostic code for sequelae. (See §4.14.).</p> <p>NOTE (2): For purposes of evaluating conditions under diagnostic code 7354, an incapacitating episode means a period of acute signs and symptoms severe enough to require bed rest and treatment by a physician.</p>	<p>40</p> <p>20</p> <p>10</p> <p>0</p>

(Authority: 38 U.S.C. 1155)  
 [FR Doc. 00-19761 Filed 8-4-00; 8:45 am]  
 BILLING CODE 8320-01-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 300**

[FRL-6844-6]

**National Oil and Hazardous Substances; Pollution Contingency Plan; National Priorities List**

**AGENCY:** Environmental Protection Agency (EPA).  
**ACTION:** Proposed deletion of the Windom Municipal Landfill Superfund Site (Site) from the National Priorities List (NPL).

**SUMMARY:** The EPA proposes to delete the Windom Municipal Landfill Superfund site (Site) from the NPL and requests public comment on this action. The NPL constitutes Appendix B to Part 300 of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended. EPA has determined that the Site currently poses no significant threat to public health or the environment, as defined by CERCLA, and therefore, further remedial measures under CERCLA are not appropriate. We are publishing this proposed rule without prior notification because the Agency views this as a noncontroversial revision and anticipates no dissenting comments. A detailed rationale for this proposal is set forth in the direct final rule. If no dissenting comments are received, the deletion will become effective. If EPA receives dissenting comments, the direct final action will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

**DATES:** Comments concerning this Action must be received by September 6, 2000.

**ADDRESSES:** Comments may be mailed to Gladys Beard, Associate Remedial Project Manager, U.S. Environmental Protection Agency (SR-6J), 77 W. Jackson, Chicago, IL 60604. Comprehensive information on this Site is available through the public docket which is available for viewing at the Site Information Repositories at the following locations: U.S. EPA Region 5, Administrative Records, 77 W. Jackson Boulevard, Chicago, IL 60604 (312)-886-0900 and the Minnesota Pollution Control Agency, 520 Lafayette Road

North, Saint Paul, Minnesota 55155-4184.

**FOR FURTHER INFORMATION CONTACT:** Gladys Beard Associate Remedial Project Manager at (312) 886-7253. Written correspondence can be directed to Ms. Beard at U.S. Environmental Protection Agency, (SR-6J) 77 W. Jackson Blvd., Chicago, IL 60604.

**SUPPLEMENTARY INFORMATION:** For additional information, see the Direct Final Action which is located in the Rules Section of this **Federal Register**.

**Authority:** 42 U.S.C. 9601-9657; 33 U.S.C. 1321(c)(2); E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp.; p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp.; p. 193.

Dated: July 21, 2000.  
**William E. Muno,**  
*Acting Regional Administrator, EPA Region V.*  
 [FR Doc. 00-19787 Filed 8-4-00; 8:45 am]

BILLING CODE 6560-50-P

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

[DA 00-1710, MM Docket No. 00-133, RM-9895]

**Digital Television Broadcast Service; Portland, ME**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by HMW, Inc., licensee of station WPXT, NTSC Channel 51, Portland, Maine, requesting the substitution of DTV Channel 36 for its assigned DTV Channel 4 at Portland. DTV Channel 36 can be allotted to Portland, Maine, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (43-51-06 N. and 70-19-40 W.). As requested, we propose to allot DTV Channel 36 to Portland with a power of 1000 and a height above average terrain (HAAT) of 265 meters. However, since the community of Portland is located within 400 kilometers of the U.S.-Canadian border, concurrence by the Canadian government must be obtained for this proposal.

**DATES:** Comments must be filed on or before September 25, 2000, and reply comments on or before October 10, 2000.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Room TW-A325, Washington, DC 20554. In