

listed in the **FOR FURTHER INFORMATION CONTACT** section.

### Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

### Federalism

We have analyzed this rule under Executive Order 13132, Federalism, and have determined that this final rule does not have implications for federalism under that Order.

### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

### Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian tribal governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes.

### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that Order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A “Categorical Exclusion” is provided for temporary safety zones of less than one week in duration. This rule establishes a safety zone with a duration of two hours.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

### PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. A temporary § 165.T13–008 is added to read as follows:

#### § 165.T13–008 Safety Zone; Columbia River Astoria, Oregon.

(a) *Location.* The following area is a safety zone: All waters of the Columbia River at Astoria, Oregon within a 500-yard radius of the fireworks barge that will be in the vicinity of Green Buoy “37” that is in approximate position 46°11’46” north latitude, 123°50’01” west longitude [NAD 83].

(b) *Regulations.* In accordance with the general regulations in § 165.23 of this part, no person or vessel may enter or remain in this zone unless authorized by the Captain of the Port or his designated representatives.

(c) *Effective dates.* This regulation is effective on August 10, 2002 from 9 p.m. (PDT) to 11 p.m. (PDT).

Dated: July 10, 2002.

**James D. Spitzer,**

*Captain, Coast Guard, Captain of the Port.*

[FR Doc. 02–18916 Filed 7–25–02; 8:45 am]

**BILLING CODE 4910–15–P**

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 4

**RIN 2900–AI44**

### Ankylosis and Limitation of Motion of Digits of the Hands

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Department of Veterans Affairs (VA) Schedule for Rating Disabilities by revising the evaluation criteria for ankylosis and limitation of motion of the fingers and thumb in order to assure that veterans diagnosed with these conditions receive consistent evaluations.

**DATES:** *Effective Date:* This amendment is effective August 26, 2002.

#### FOR FURTHER INFORMATION CONTACT:

Caroll McBrine, M.D., Consultant, Regulations Staff (211A), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Ave., NW, Washington DC, 20420, (202) 273–7210.

**SUPPLEMENTARY INFORMATION:** As part of its review of the Schedule for Rating Disabilities (38 CFR part 4), VA published a proposal to amend that portion of the Schedule pertaining to ankylosis and limitation of motion of the fingers and thumb. The proposed rule was published in the **Federal Register** on November 2, 2001 (66 FR 55614). Interested persons were invited to submit written comments on or before January 2, 2002. We received one comment, from the Disabled American Veterans.

We proposed to change the name of the “middle finger” to “long finger” in the diagnostic codes pertaining to digit ankylosis and limitation of motion. The commenter suggested that we make the same change in diagnostic codes for finger amputations. In response, we have made that change. In addition, in current Plate III, one finger is labeled “middle finger,” and we will be revising that as part of the overall revision of the orthopedic system to “long finger”. Similarly, the commenter suggested that

we change “median transverse fold of palm” to “proximal transverse crease of palm” in 38 CFR 4.71, as we proposed to do in § 4.71a. We have also made that change.

We proposed to evaluate an ankylosed digit as amputation when both joints are ankylosed, and either is in extension or “full” flexion. The commenter felt that the proposed ratings do not adequately provide for the disability that occurs when a finger ankylosed in flexion obstructs the other fingers and reduces the strength of the hand in gripping or grasping motions. The commenter expressed the belief that this disability is worse than an amputation and should receive a higher evaluation.

Digits that inhibit the use of other fingers are sometimes amputated if they inhibit hand function. Since 38 CFR 4.68, “Amputation rule,” however, prohibits an evaluation exceeding that which would be assigned if the finger were amputated, we have adopted another way of addressing this problem. In our judgment, if finger flexion deformity interferes with the function of other fingers or hand function overall, assessment of the other fingers or the hand overall should be taken into account in rating. This is both more appropriate than providing a higher evaluation for the ankylosed finger itself and consistent with the requirements of § 4.68. Provisions #2 and #5 of this portion of the rating schedule would apply in this situation. However, to assure that raters address any additional disability due to ankylosis of a single digit, we have revised the notes following the diagnostic codes for ankylosis of individual digits, which currently direct raters to consider rating as amputation, to read “Also consider

whether evaluation as amputation is warranted and whether an additional evaluation is warranted for resulting limitation of motion of other digits or interference with overall function of the hand”. In our judgment, this will be sufficient to alert raters to the possibility of additional disability due to a single ankylosed digit.

VA appreciates the comment submitted in response to the proposed rule. Based on the rationale stated in the proposed rule and in this document, the proposed rule is adopted with the changes noted.

#### Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

#### Regulatory Flexibility Act

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.

#### Executive Order 12866

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: May 16, 2002.

**Anthony J. Principi,**

*Secretary of Veterans Affairs.*

For the reasons set out in the preamble, 38 CFR part 4, subpart B, is 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, unless otherwise noted.

2. In § 4.71, last sentence, remove “median transverse fold of the palm” and add, in its place, “proximal transverse crease of palm”.

3. In § 4.71a under the tables MULTIPLE FINGER AMPUTATIONS and SINGLE FINGER AMPUTATIONS, remove “middle” every place it occurs and add in each place “long”.

4. Section 4.71a is amended by removing the tables “MULTIPLE FINGERS: UNFAVORABLE ANKYLOSIS”; MULTIPLE FINGERS: FAVORABLE ANKYLOSIS”; and ANKYLOSIS OF INDIVIDUAL FINGERS” and adding, in their place, the following table to read as follows:

#### § 4.71a Schedule of ratings—musculoskeletal system.

\* \* \* \* \*

#### EVALUATION OF ANKYLOSIS OR LIMITATION OF MOTION OF SINGLE OR MULTIPLE DIGITS OF THE HAND

	Rating	
	Major	Minor
(1) For the index, long, ring, and little fingers (digits II, III, IV, and V), zero degrees of flexion represents the fingers fully extended, making a straight line with the rest of the hand. The position of function of the hand is with the wrist dorsiflexed 20 to 30 degrees, the metacarpophalangeal and proximal interphalangeal joints flexed to 30 degrees, and the thumb (digit I) abducted and rotated so that the thumb pad faces the finger pads. Only joints in these positions are considered to be in favorable position. For digits II through V, the metacarpophalangeal joint has a range of zero to 90 degrees of flexion, the proximal interphalangeal joint has a range of zero to 100 degrees of flexion, and the distal (terminal) interphalangeal joint has a range of zero to 70 or 80 degrees of flexion .....	.....	.....
(2) When two or more digits of the same hand are affected by any combination of amputation, ankylosis, or limitation of motion that is not otherwise specified in the rating schedule, the evaluation level assigned will be that which best represents the overall disability (i.e., amputation, unfavorable or favorable ankylosis, or limitation of motion), assigning the higher level of evaluation when the level of disability is equally balanced between one level and the next higher level .....	.....	.....
(3) Evaluation of ankylosis of the index, long, ring, and little fingers:		
(i) If both the metacarpophalangeal and proximal interphalangeal joints of a digit are ankylosed, and either is in extension or full flexion, or there is rotation or angulation of a bone, evaluate as amputation without metacarpal resection, at proximal interphalangeal joint or proximal thereto .....	.....	.....
(ii) If both the metacarpophalangeal and proximal interphalangeal joints of a digit are ankylosed, evaluate as unfavorable ankylosis, even if each joint is individually fixed in a favorable position.		

## EVALUATION OF ANKYLOSIS OR LIMITATION OF MOTION OF SINGLE OR MULTIPLE DIGITS OF THE HAND—Continued

	Rating	
	Major	Minor
(iii) If only the metacarpophalangeal or proximal interphalangeal joint is ankylosed, and there is a gap of more than two inches (5.1 cm.) between the fingertip(s) and the proximal transverse crease of the palm, with the finger(s) flexed to the extent possible, evaluate as unfavorable ankylosis .....	.....	.....
(iv) If only the metacarpophalangeal or proximal interphalangeal joint is ankylosed, and there is a gap of two inches (5.1 cm.) or less between the fingertip(s) and the proximal transverse crease of the palm, with the finger(s) flexed to the extent possible, evaluate as favorable ankylosis .....	.....	.....
(4) Evaluation of ankylosis of the thumb:		
(i) If both the carpometacarpal and interphalangeal joints are ankylosed, and either is in extension or full flexion, or there is rotation or angulation of a bone, evaluate as amputation at metacarpophalangeal joint or through proximal phalanx .....	.....	.....
(ii) If both the carpometacarpal and interphalangeal joints are ankylosed, evaluate as unfavorable ankylosis, even if each joint is individually fixed in a favorable position .....	.....	.....
(iii) If only the carpometacarpal or interphalangeal joint is ankylosed, and there is a gap of more than two inches (5.1 cm.) between the thumb pad and the fingers, with the thumb attempting to oppose the fingers, evaluate as unfavorable ankylosis .....	.....	.....
(iv) If only the carpometacarpal or interphalangeal joint is ankylosed, and there is a gap of two inches (5.1 cm.) or less between the thumb pad and the fingers, with the thumb attempting to oppose the fingers, evaluate as favorable ankylosis .....	.....	.....
(5) If there is limitation of motion of two or more digits, evaluate each digit separately and combine the evaluations .....	.....	.....
<b>I. Multiple Digits: Unfavorable Ankylosis</b>		
5216 Five digits of one hand, unfavorable ankylosis of .....	60	50
<b>Note:</b> Also consider whether evaluation as amputation is warranted.		
5217 Four digits of one hand, unfavorable ankylosis of:		
Thumb and any three fingers .....	60	50
Index, long, ring, and little fingers .....	50	40
<b>Note:</b> Also consider whether evaluation as amputation is warranted.		
5218 Three digits of one hand, unfavorable ankylosis of:		
Thumb and any two fingers .....	50	40
Index, long, and ring; index, long, and little; or index, ring, and little fingers .....	40	30
Long, ring, and little fingers .....	30	20
<b>Note:</b> Also consider whether evaluation as amputation is warranted.		
5219 Two digits of one hand, unfavorable ankylosis of:		
Thumb and any finger .....	40	30
Index and long; index and ring; or index and little fingers .....	30	20
Long and ring; long and little; or ring and little fingers .....	20	20
<b>Note:</b> Also consider whether evaluation as amputation is warranted.		
<b>II. Multiple Digits: Favorable Ankylosis</b>		
5220 Five digits of one hand, favorable ankylosis of .....	50	40
5221 Four digits of one hand, favorable ankylosis of:		
Thumb and any three fingers .....	50	40
Index, long, ring, and little fingers .....	40	30
5222 Three digits of one hand, favorable ankylosis of:		
Thumb and any two fingers .....	40	30
Index, long, and ring; index, long, and little; or index, ring, and little fingers .....	30	20
Long, ring and little fingers .....	20	20
5223 Two digits of one hand, favorable ankylosis of:		
Thumb and any finger .....	30	20
Index and long; index and ring; or index and little fingers .....	20	20
Long and ring; long and little; or ring and little fingers .....	10	10
<b>III. Ankylosis of Individual Digits</b>		
5224 Thumb, ankylosis of:		
Unfavorable .....	20	20
Favorable .....	10	10
<b>Note:</b> Also consider whether evaluation as amputation is warranted and whether an additional evaluation is warranted for resulting limitation of motion of other digits or interference with overall function of the hand.		
5225 Index finger, ankylosis of:		
Unfavorable or favorable .....	10	10
<b>Note:</b> Also consider whether evaluation as amputation is warranted and whether an additional evaluation is warranted for resulting limitation of motion of other digits or interference with overall function of the hand.		
5226 Long finger, ankylosis of:		
Unfavorable or favorable .....	10	10
<b>Note:</b> Also consider whether evaluation as amputation is warranted and whether an additional evaluation is warranted for resulting limitation of motion of other digits or interference with overall function of the hand.		
5227 Ring or little finger, ankylosis of:		
Unfavorable or favorable .....	0	0

## EVALUATION OF ANKYLOSIS OR LIMITATION OF MOTION OF SINGLE OR MULTIPLE DIGITS OF THE HAND—Continued

	Rating	
	Major	Minor
<b>Note:</b> Also consider whether evaluation as amputation is warranted and whether an additional evaluation is warranted for resulting limitation of motion of other digits or interference with overall function of the hand.		
<b>IV. Limitation of Motion of Individual Digits</b>		
5228 Thumb, limitation of motion:		
With a gap of more than two inches (5.1 cm.) between the thumb pad and the fingers, with the thumb attempting to oppose the fingers .....	20	20
With a gap of one to two inches (2.5 to 5.1 cm.) between the thumb pad and the fingers, with the thumb attempting to oppose the fingers .....	10	10
With a gap of less than one inch (2.5 cm.) between the thumb pad and the fingers, with the thumb attempting to oppose the fingers .....	0	0
5229 Index or long finger, limitation of motion:		
With a gap of one inch (2.5 cm.) or more between the fingertip and the proximal transverse crease of the palm, with the finger flexed to the extent possible, or; with extension limited by more than 30 degrees .....	10	10
With a gap of less than one inch (2.5 cm.) between the fingertip and the proximal transverse crease of the palm, with the finger flexed to the extent possible, and; extension is limited by no more than 30 degrees .....	0	0
5230 Ring or little finger, limitation of motion:		
Any limitation of motion .....	0	0

\* \* \* \*

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

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Parts 52 and 81**

[MN72-7297a; FRL-7251-5]

**Approval and Promulgation of Implementation Plans; Minnesota, and Designation of Areas for Air Quality Planning Purposes; Minnesota****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

**SUMMARY:** On June 20, 2002, the Minnesota Pollution Control Agency (MPCA) submitted to EPA a redesignation request and maintenance plan for the Saint Paul, Ramsey County particulate matter primary nonattainment area. In its submittal, the State requested that we redesignate Ramsey County to attainment of the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM) and that we approve the maintenance plan for the area into the Minnesota PM State Implementation Plan (SIP). In this action EPA is approving the state's request, because it meets all of the Clean Air Act (Act) requirements for redesignation.

If EPA receives adverse written comments on this action, we will publish a timely withdrawal of the

direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**DATES:** This "direct final" rule is effective September 24, 2002, unless EPA receives written adverse or critical comments by August 26, 2002. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Send written comments to Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR-18J), United Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. (We recommend that you telephone Christos Panos, at (312) 353-8328, before visiting the Region 5 Office.)

A copy of this redesignation request is available for inspection at the Office of Air and Radiation (OAR) Docket and Information Center (Air Docket 6102), United States Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (202) 260-7548.

**FOR FURTHER INFORMATION CONTACT:** Christos Panos, Environmental Engineer, Regulation Development Section (AR-18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8328.

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever "we," "us," or "our" are used we mean EPA. This **SUPPLEMENTARY INFORMATION** section is organized as follows:

- A. What action is EPA taking?
- B. Why was this SIP revision submitted?
- C. Why can we approve this request?
- D. What requirements must be met for approval of a redesignation, and how did the state meet them?

**A. What Action Is EPA Taking?**

We are approving the State of Minnesota's request to redesignate the Ramsey County PM nonattainment area to attainment of the PM NAAQS. We are also approving the maintenance plan for this area into the Minnesota PM SIP.

**B. Why Was This SIP Revision Submitted?**

MPCA believes that the Ramsey County PM nonattainment area is eligible for redesignation because we have approved the Saint Paul PM SIP and monitors in the nonattainment area have not recorded any exceedances of the PM NAAQS since May 1995. The redesignation request submittal consists primarily of a maintenance plan and air quality monitoring data. The submittal contains text describing how the statutory requirements were met.

**C. Why Can We Approve This Request?**

Consistent with the Act's redesignation requirements of section 107(d)(3)(E), EPA developed procedures for redesignation of nonattainment areas that are in an EPA September 4, 1992 memorandum titled, "Procedures for Processing Requests to Redesignate Areas to Attainment." This EPA guidance document contains a number of requirements that a state must meet before it can request a change in designation for a federally designated nonattainment area. That memorandum and EPA's June 27, 2002 Technical