

without first securing the consent of the Secretary.

(e) As a condition for participation, a conservation plan will be developed by NRCS in consultation with the landowner and implemented according to the NRCS Field Office Technical Guide and approved by the local conservation district. The conservation plan will be developed and managed in accordance with the Food Security Act of 1985, as amended, 7 CFR part 12 or subsequent regulations, and other requirements as determined by the State Conservationist. To ensure compliance with this conservation plan, the easement will grant to the United States, through NRCS, its successors or assigns, a right of access to the easement area.

(f) The cooperating entity shall acquire, hold, manage and enforce the easement. The cooperating entity may have the option to enter into an agreement with governmental or private organizations to carry out easement stewardship responsibilities if approved by NRCS.

§ 1491.23 Easement modifications.

(a) After an easement has been recorded, no amendments to the easement will be made without prior approval by NRCS.

(b) Easement modifications will be approved only when easement is duly prepared and recorded in conformity with standard real estate practices, including requirements for title approval, subordination of liens, and recordation, and when the amendment is consistent with the purposes of the conservation easement.

Subpart C—General Administration

§ 1491.30 Violations and remedies.

(a) In the event of a violation of the terms of the easement, the entity shall notify the landowner. The landowner may be given reasonable notice and, where appropriate, an opportunity to voluntarily correct the violation in accordance with the terms of the conservation easement.

(b) In the event that the cooperating entity fails to enforce any of the terms of the easement as determined in the sole discretion of the Secretary, the Secretary and his or her successors and assigns shall have the right to enforce the terms of the easement through any and all authorities available under Federal or State law. In the event that the cooperating entity attempts to terminate, transfer, or otherwise divest itself of any rights, title, or interests of the easement or extinguish the easement or without the prior consent of the Secretary and payment of consideration

to the United States, then, at the option of the Secretary, all right, title, and interest in the conservation easement shall become vested in the United States of America.

(c) Notwithstanding paragraph (a) of this section, NRCS reserves the right to enter upon the easement area at any time to remedy deficiencies or easement violations, as it relates to the conservation plan. The entry may be made at the discretion of NRCS when the actions are deemed necessary to protect highly erodible soils and wetland resources. The landowner shall be liable for any costs incurred by the United States as a result of the landowner's negligence or failure to comply with the easement requirements.

(d) The United States shall be entitled to recover any and all administrative and legal costs, including attorney's fees or expenses, associated with any enforcement or remedial action.

(e) The conservation easement shall include an indemnification clause requiring landowners to indemnify, defend, and hold harmless the United States from any liability resulting from the negligent acts of the landowner.

(f) In instances where an easement is terminated or extinguished, NRCS will collect CCC's share of the conservation easement based on the appraised fair market value at the time the easement is violated or terminated. CCC's share shall be in proportion to its percentage of original investment.

§ 1491.31 Appeals.

(a) A person or cooperating entity participating in FRPP may obtain a review of any administrative determination concerning eligibility for participation utilizing the administrative appeal regulations provided in 7 CFR part 614.

(b) Before a person may seek judicial review of any action taken under this part, the person must exhaust all administrative appeal procedures set forth in paragraph (a) of this section, and for the purposes of judicial review, no decision shall be a final agency action except a decision of the U. S. Department of Agriculture under these provisions.

(c) Any appraisals, market analyses, or supporting documentation that may be used by the NRCS to determine property value are considered confidential information, and shall be disclosed only as determined by the cooperating entity and NRCS in accordance with applicable law.

§ 1491.32 Scheme or device.

(a) If it is determined by the Secretary that a landowner or cooperating entity have employed a scheme or device to defeat the purposes of this part, any part of any program payment otherwise due or paid such landowner or cooperating entity during the applicable period may be withheld or be required to be refunded with interest thereon, as determined appropriate by CCC.

(b) A scheme or device includes, but is not limited to, coercion, fraud, misrepresentation, depriving any other person or entity of payments for easements for the purpose of obtaining a payment to which a person would otherwise not be entitled.

Signed in Washington, DC, on October 16, 2002.

Bruce I. Knight,

Vice President, Commodity Credit Corporation and Chief, Natural Resources Conservation Service.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM01-12-000]

Remedying Undue Discrimination Through Open Access Transmission Service and Standard Electricity Market Design

October 22, 2002.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of technical conferences.

SUMMARY: On July 31, 2002, the Commission issued a Notice of Proposed Rulemaking (NOPR) in the above-captioned docket, proposing to amend its regulations to remedy undue discrimination through open access transmission service and standard electricity market design. The Commission has scheduled a series of public conferences, to be held in the Commission Meeting Room, to address specific areas of concern about the proposed rule. Persons interested in speaking at the conferences should file requests to speak on or before October 25, 2002.

DATES: Requests to speak are due: October 25, 2002. Conferences will be held on: November 6, 2002, November 19, 2002, and December 3, 2002.

ADDRESSES: Send requests to speak to: Office of the Secretary, Federal Energy

Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

Sarah McKinley, Office of External Affairs, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502-8004.

SUPPLEMENTARY INFORMATION:

1. Take notice that technical conferences led by Commissioners and members of Commission staff will be held on November 6, 2002, November 19, 2002, and December 3, 2002. Each conference will take place from approximately 9:30 a.m. until 5 p.m. in the Commission Meeting Room on the second floor of the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC. All interested persons may attend, and registration is not required; however, in-person attendees are asked to notify the Commission of their intent to attend by sending an e-mail message to customer@ferc.gov.

2. These technical conferences are intended to be working sessions that focus on clarifying areas of concern with the proposed rule, resolving differences, and devising solutions to the difficult issues that have been identified during the Commission's outreach efforts following issuance of the Notice of Proposed Rulemaking (NPR) in this docket. To make the conferences successful, we encourage participants to come prepared to support alternative proposals and offer concrete solutions to the issues that have been raised.

3. As specified in the Notice issued in this docket on October 2, 2002, the November 6, 2002, conference will focus on pricing proposals for network upgrades and expansions. The Commission wants to ensure that infrastructure will be built in a timely manner and that costs will be recovered in a fair and efficient manner. In particular, the discussions will attempt to clarify and seek consensus on:

a. Definitions of pricing policies including types of participant funding.

(1) "Beneficiaries pay"—the beneficiary, whether a single customer, a rate zone, the entire RTO, or a neighboring region as determined by the Independent Transmission Provider, pays for the upgrades.

(2) "Market-based participant funding"—projects voluntarily proposed by individual market participants are voluntarily paid for by those participants, in order to use the expanded capacity and receive the Congestion Revenue Rights created.

(3) "Rolled in pricing"—projects are paid by all users of the regional grid.

(4) "Local License plate pricing"—Projects in a given service territory are

paid for by those who pay the access charge in that territory.

b. Definitions of categories of investments that must be addressed:

- (1) Region-wide reliability;
- (2) Local reliability;
- (3) Congestion relief.

c. Which of the types of investments in (b) should be treated under each of the pricing policies in (a)?

d. What barriers might remain under the proposed planning process to getting needed transmission built, and how can they be addressed better?

e. How much regional variation should be allowed in determining the appropriate pricing treatment for each category of investment?

f. Under market-based participant funding, should a market participant who funds an upgrade and receives the associated congestion revenue rights also pay an access charge to receive transmission service?

g. In a region that moves to rely substantially on market-based participant funding, how should customers transition from transmission credits for network upgrades associated with generator interconnections to congestion revenue rights?

h. In regions that propose to rely substantially on market-based participant funding, how can current wholesale network customers ensure that their load growth continues to be planned-for on a non-discriminatory basis?

i. What accommodations should be made, if any, to account for the recovery of the costs of transmission expansion with state retail rate freezes.

4. The November 19, 2002 conference will focus on aspects of the resource adequacy requirement proposed in the NPR, specifically:

a. How to accommodate differences in state requirements for reserve margins, resource adequacy, and retail access to achieve a standard or seamless resource adequacy within each region;

b. Appropriate elements of design for resource adequacy requirements in areas that have retail access;

c. Methods of ensuring adequate resource deliverability;

d. Potential roles for central procurement;

e. Appropriate penalties for LSEs that do not meet the requirements;

f. Balance of energy and capacity prices to provide appropriate long run investment incentives;

g. Potential roles of forward capacity markets;

h. How to assign the appropriate value (both price and quantity) to demand-side resources' participation in satisfying resource adequacy requirements;

i. How to ensure resource adequacy in energy-limited systems; and

j. Possible seams issues.

5. The December 3, 2002, conference will discuss specific issues related to the transition to congestion revenue rights (CRRs), such as:

a. Whether the Commission's proposal to have a mandatory auction for CRRs should be replaced by a policy allowing regions to choose an allocation procedure.

b. Determining how to allocate CRRs such that all customers receive CRRs commensurate with their existing rights to the transmission system, including load diversity and to what extent planned and documented future load growth is accounted for;

c. Determining how to make sure that competing load-serving entities can acquire CRRs associated with new load or load formerly served by another load-serving entity;

d. Developing long-term CRRs to match the term of power purchase contracts;

e. Where CRRs are auctioned, how to ensure that any auction revenues are properly returned to load;

f. Guarding against the use of CRRs to exercise market power; and

g. Allowing regional variation on how rights are allocated to load.

6. Persons interested in speaking at these conferences should file a request to speak on or before October 25, 2002, in Docket No. RM01-12-000. If possible, interested speakers should also send a copy of their request to speak to customer@ferc.gov. The request should clearly specify the topic and date of the conference to which the request pertains; the name of the speaker; his or her title; the person or entity the speaker represents; the speaker's mailing address, telephone number, facsimile number and e-mail address; and a brief description of the issues the speaker wishes to address. As the number of potential speakers may exceed the time allotted for the conference, interested speakers are encouraged to coordinate their efforts with others who may have similar interests. Based on the requests to participate, panels of speakers will be specified in a subsequent notice.

7. Transcripts of the conference will be immediately available from Ace Reporting Company (202-347-3700 or 1-800-336-6646), for a fee. They will be available for the public on the Commission's FERRIS system two weeks after the conference.

Additionally, Capitol Connection offers the opportunity for remote listening and viewing of the conference. It is available for a fee, live over the Internet, via C-Band Satellite. Persons interested in

receiving the broadcast, or who need information on making arrangements should contact David Reininger or Julia Morelli at the Capitol Connection (703-993-3100) as soon as possible or visit the Capitol Connection website at <http://www.capitolconnection.gmu.edu> and click on "FERC."

8. For more information about the conferences, please contact Sarah McKinley at (202) 502-8004 or sarah.mckinley@ferc.gov.

By direction of the Commission.

Linwood A. Watson, Jr.,

Deputy Secretary.

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4

RIN 2900-AL32

Schedule for Rating Disabilities; Evaluation of Multiple Scars

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend that portion of the Department of Veterans Affairs (VA) Schedule for Rating Disabilities that addresses the Skin in order to clarify how to evaluate multiple superficial or deep scars in a uniform and consistent manner.

DATES: Comments must be received by VA on or before December 30, 2002.

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-AL32." All comments received will be available for public inspection 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: Carroll 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) 273-7230.

SUPPLEMENTARY INFORMATION: This document proposes to amend the Department of Veterans Affairs (VA) Schedule for Rating Disabilities (38 CFR

part 4) by revising § 4.118, that portion of the Schedule that addresses scars. It would clarify the method of evaluating multiple superficial and deep scars and provide directions that promote consistent evaluations.

A current note under diagnostic codes 7801 (scars, other than head, face, or neck, that are deep or that cause limited motion) and 7802 (scars, other than head, face, or neck, that are superficial and that do not cause limited motion) in § 4.118 of VA's Schedule for Rating Disabilities (38 CFR part 4) directs that scars in widely separated areas, as on two or more extremities or on anterior and posterior surfaces of extremities or trunk, be separately rated and combined in accordance with 38 CFR 4.25 (Combined ratings table).

The current rating schedule provides an evaluation level of 10 percent under diagnostic code 7803 for superficial unstable scars and under diagnostic code 7804 for superficial painful scars. However, it provides no guidance on whether or not each painful or unstable scar, no matter how small or close together, should be separately evaluated. Examples where this might be an issue are multiple scars stemming from a grenade explosion or from certain surgical procedures, such as numerous ligations of varicose veins on a single leg. This lack of guidance has led to inconsistent evaluations because raters are unsure whether each unstable or painful scar calls for a separate evaluation. Therefore, we propose to revise the rating schedule to clarify how multiple superficial unstable or painful scars are to be evaluated.

The provision concerning the evaluation of multiple scars under diagnostic codes 7801 and 7802 has been in effect for many years. Diagnostic codes 7803 and 7804 both address superficial scars, which are, by virtue of the lesser extent of tissue damage, inherently less seriously disabling than deep scars, which are evaluated under diagnostic code 7801. It would, therefore, be neither appropriate nor internally consistent to assign a separate evaluation for each painful or unstable superficial scar, while assigning only a single evaluation for multiple deep scars, unless they are in widely separated areas. Disproportionately high evaluations for superficial scars would result if that were done. Therefore, we propose to evaluate multiple superficial scars under diagnostic codes 7803 and 7804 in the same manner that multiple deep and superficial scars are evaluated under diagnostic codes 7801 and 7802. The issues related to evaluation are similar, and evaluating multiple scars of all four types in the same manner would

promote fair and consistent handling of multiple scars, result in equitable evaluations, and remove any ambiguity about their evaluation. We propose to provide three notes at the beginning of § 4.118 providing directions for evaluating multiple scars evaluated under diagnostic codes 7801, 7802, 7803, and 7804.

The first note would explain that scars located in two or more of the following locations are considered to be in widely separated areas of the body: the anterior surface of the left upper extremity, the anterior surface of the right upper extremity, the posterior surface of the left upper extremity, the posterior surface of the right upper extremity, the anterior surface of the left lower extremity, the anterior surface of the right lower extremity, the posterior surface of the left lower extremity, the posterior surface of the right lower extremity, the anterior surface of the trunk, the posterior surface of the trunk, and the head, face, and neck. This represents a rewording of part of the current note under diagnostic codes 7801 and 7802.

The second note would direct raters to assign a single evaluation for all superficial scars in each widely separated area of the body. This is also a rewording of part of the current note under diagnostic codes 7801 and 7802, and would apply to diagnostic codes 7802, 7803, and 7804, the three codes under which superficial scars are evaluated. Since there is the possibility that one or more multiple superficial scars might have characteristics that would allow evaluation under more than one of the diagnostic codes from 7802 to 7804, the note also directs raters to increase the evaluation for scar(s) in each widely separated area of the body by 10 percent if any of the scars in a given area meet the criteria for evaluation under at least two diagnostic codes (among 7802, 7803, or 7804).

The third note would apply to deep scars and directs raters to assign a single evaluation for all deep scars in each widely separated area of the body. This is not a substantive change from the current direction.

We propose an additional change under diagnostic code 7801 in order to eliminate possible confusion about scars that fall between the sizes indicated at various percentage levels. Ten percent would be assigned for area or areas of at least 6 square inches (39 sq. cm.) but less than 12 square inches (77 sq. cm.), 20 percent for area or areas of at least 12 square inches (77 sq. cm.) but less than 72 square inches (465 sq. cm.), 30 percent for area or areas of at least 72 square inches (465 sq. cm.) but less than