Business Regulatory Fairness Act (U.S.C. Chapter 8), the Department has screened the Rule and determines that it is not a ''major rule,'' as defined in 5 U.S.C. 804(2). This rule does not impose information collection requirements under the provisions of the Paperwork Reduction Act, 44 U.S.C., Chapter 35. In accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Nor does the rule have federalism implications warranting the application of Executive Order No. 12372 and No.13132. This rule is exempt from E.O. 12866, but the Department has reviewed the rule to ensure consistency with the objectives of the Executive Order, as well as with E.O. 12988, and the Office of Management and Budget has determined this rule would not constitute a significant regulatory action under E.O. 12866. This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 *et seq.*) and Executive Order 12875.

This amendment is proposed to take effect June 1, 2000.

**Proposed Rule**

**List of Subjects in 22 CFR Part 22**

Passports and visas, Schedule of Consular Fees.

Accordingly, this rule proposes to amend 22 CFR part 22 as follows:

## PART 22—[AMENDED]

1. The authority citation for part 22 continues to read as follows:

**Authority:** 8 U.S.C. 1153 note, 1351, 1351 note; 10 U.S.C. 214, 2504(a), 4201, 4206, 4215, 4219; 31 U.S.C. 9701; E.O. 10718, 22 FR 4632, 3 CFR, 1954–1958 Comp., p.382; E.O. 11295, 31 FR 10603, 3 CFR, 1966–1970 Comp., p. 570.

2. In Section 22.1, by adding item 61. to read as follows:

**§ 22.1 Schedule of fees.**

| Item No. | Fee |
|---|---|
| * * * * * | |
| 61. Affidavit of Support Processing Fee: ..... | $50.000 |
| * * * * * | |

Dated: March 6, 2000.

**Bonnie R. Cohen,**

*Under Secretary for Management.*

[FR Doc. 00–6100 Filed 3–10–00; 8:45 am]

BILLING CODE 4710–06–P

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## DEPARTMENT OF LABOR

## Occupational Safety and Health Administration

## 29 CFR Part 1910

**[Docket No. S–777]**

**RIN 1218–AB36**

## Ergonomics Program

**AGENCY:** Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

**ACTION:** Proposed rule; additional information on informal public hearing.

**SUMMARY:** OSHA is announcing the final locations of the informal public hearing for its proposed Ergonomics Program standard which was published on November 23, 1999 (64 FR 65768).

**DATES:** The hearing will begin on Monday, March 13, 2000, in Washington, D.C. The hearing in Washington will run for 4 weeks through April 7. The hearing will resume on April 11, in Chicago, Illinois, and will continue there until April 21. The hearing will then resume in Portland, Oregon, on April 24 and run until May 3. The final week of the hearing will be May 8 through 12 in Washington, D.C. The hearing will begin at 9:30 a.m. on March 13; on subsequent days, the starting time will be 8:30 a.m. The hearing will ordinarily conclude by 6:00 p.m. each day; however, in order to assure orderly development of the record on any particular day, the Administrative Law Judge may extend the hearing that day. All questioning of public participants will be completed on the day the participants testify.

**ADDRESSES:** The March 13 through April 7 hearing in Washington will be in the Frances Perkins Building Auditorium in the U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210. The hearing in Chicago will be held at the State of Illinois Building, James R. Thompson Center (Assembly Hall), 100 W. Randolph Street, in Chicago, Illinois. The hearing in Portland will be held at the Mark Hatfield Federal Court House, Courtroom #16, 1000 Southwest 3rd Avenue, in Portland, Oregon. The conclusion of the hearing from May 8 through 12 in Washington will be in the Frances Perkins Building, Room N–3437 A–D, 200 Constitution Avenue, NW, Washington, DC 20210.

**FOR FURTHER INFORMATION CONTACT:** OSHA's Ergonomics Team at (202) 693–2116, or visit the OSHA Homepage at www.osha.gov.

**Authority:** This document was prepared under the direction of Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210. It is issued under sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), Secretary of Labor's Order No. 6–96 (62 FR 111), and 29 CFR part 1911.

Signed at Washington, DC, this 8th day of March, 2000.

**Charles N. Jeffress,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. 00–6103 Filed 3–10–00; 8:45 am]

BILLING CODE 4510–26–M

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## DEPARTMENT OF VETERANS AFFAIRS

## 38 CFR Part 3

**RIN 2900–AJ51**

## Revised Criteria for Monetary Allowance for an Individual Born With Spina Bifida Whose Biological Father or Mother is a Vietnam Veteran

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to amend the evaluation criteria that the Department of Veterans Affairs (VA) uses to determine the amount of the monthly monetary allowance that it pays to an individual born with spina bifida whose biological father or mother is a Vietnam veteran. The intended effect of this proposed amendment is to clarify the criteria to ensure that they are applied consistently and to add a provision allowing the Director of the Compensation and Pension Service to adjust the payment level for individuals with disabling impairments due to spina bifida that are not addressed in the evaluation criteria.

**DATES:** Comments must be received on or before May 12, 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

in response to ''RIN 2900–AJ51.'' All comments received will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8:00 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 (211B), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 273–7230.

**SUPPLEMENTARY INFORMATION:** Section 421 of Public Law 104–204 authorized VA to provide certain benefits, including a monthly monetary allowance, to children suffering from spina bifida who are the natural children of Vietnam veterans. To implement the provisions of section 421, VA published final regulations, codified at 38 CFR 3.814, in the **Federal Register** on September 30, 1997 (62 FR 51274–281).

38 CFR 3.814(d) provides evaluation criteria for determining which of three levels of monthly monetary allowance an eligible individual will receive for disability due to spina bifida. The evaluation criteria are based not only on the presence of medical impairments due to spina bifida, but also on the disabling effects of those impairments on ordinary day-to-day activities, including activities outside the home, such as holding a job, attending school, traveling, etc. The disabling effects vary significantly from person to person depending on the basic severity of the impairment itself and the extent to which the effects of the impairment can be modified or controlled through mechanical means, medication, surgery, etc. In January 1998, VA reviewed a sample of adjudicated spina bifida claims and, based on actual medical evidence used to adjudicate these claims, assessed the effectiveness of the evaluation criteria and the manner in which they were applied. Based on that assessment, a further review of the medical literature, and suggestions from several service organizations, we propose to amend the evaluation criteria as discussed below.

Under current criteria, the effects of lower extremity impairment are evaluated as follows: Level I (the least severe level) if the child is ''able to walk without braces or other external support (although gait may be impaired)''; Level II if the child is ''ambulatory, but only with braces or other external support''; and Level III if the child is ''unable to ambulate.'' We found from our review that rating specialists applied the criteria inconsistently to individuals who occasionally use braces or a wheelchair, or who use them only outside the home. We propose to clarify the criteria so that the assessment is based on whichever mode of ambulation represents the individual's primary means of mobility in the community. Although some individuals may be able to move about their homes without braces or wheelchairs, in our view their primary means of mobility outside of the home is the best indicator of the extent to which their ability to engage in ordinary day-to-day activities is impaired. Furthermore, the change would assure that there is a clearly defined and uniform basis for assessing the effects of lower extremity impairment.

The effects of bowel and bladder impairment are currently evaluated as follows: Level I if the child ''is continent of urine and feces''; Level II if the child ''requires drugs or intermittent catheterization or other mechanical means to maintain proper urinary bladder function, or mechanisms for proper bowel function''; and Level III if the child ''has complete urinary or fecal incontinence.'' In reviewing adjudicated claims, we noted that the terms ''proper urinary bladder function'' and ''proper bowel function'' were interpreted differently by different raters. While many individuals with spina bifida do not have normal bowel or bladder function, neither are they completely incontinent of bowel or bladder. We propose to revise the criteria for evaluating the effects of bowel and bladder impairment to more clearly define the three levels and ensure that the criteria are consistently applied.

We propose to evaluate the extent to which bladder impairment affects the ability of the individual to engage in ordinary day-to-day activities based on the length of time the individual is usually able to remain dry during waking hours, and whether or not the individual requires the use of medication or some other means to achieve that level of control. Specifically, we propose to pay an individual who requires medication or other means to control the effects of urinary bladder impairment, and who, no more than two times per week, is unable to remain dry for at least three hours at a time during waking hours at Level II, and an individual who, despite the use of medication or other means to control the effects of urinary bladder impairment, at least three times per week is unable to remain dry for three hours at a time during waking hours at Level III.

The length of time that an individual is able to remain dry is an objective measure of the extent to which his or her ability to engage in ordinary day-to-day activities, such as working or attending school, is limited. Predictable three-hour intervals during waking hours that the individual can rely on remaining dry represent reasonable periods around which an individual can plan to conduct activities such as working, or attending school or social events, etc. At least one major study used a three-hour period in assessing whether conservative therapy could lessen or control incontinence (''The Chances of a Spina Bifida Patient Becoming Continent/Socially Dry By Conservative Therapy'' (M. Knoll and H Madersbacher, *Paraplegia*, 1993, Jan; 31 (1): 22–27)). We propose to specify the frequency of inability to remain dry for at least three hours at a time during waking hours—no more than two times per week for Level II, and at least three times per week for Level III—to take into account the fact that individuals who are ordinarily able to remain dry for three hours may occasionally have an accidental involuntary release of urine due to reasons such as an acute illness, miscalculations in controlling fluid intake, etc. Basing evaluations on the frequency of inability to remain dry for at least three hours at a time during waking hours will assure that individuals with bladder impairment are consistently evaluated.

One service organization recommended that we evaluate impairment of bowel and bladder function based on whether the individual has voluntary control of those functions. This organization suggested that doing otherwise punishes children with spina bifida for receiving appropriate treatment and rehabilitation because they are still, in fact, incontinent. Rather than punishing individuals who are able to alleviate urinary incontinence by treatment, the criteria recognize that the ability to alleviate incontinence improves the individual's ability to engage in ordinary day-to-day activities. Thus, we do not propose to adopt this recommendation.

The same organization pointed out that procedures necessary to treat or compensate for loss of voluntary control are intrusive, unpleasant, and time consuming. Although we will continue to evaluate the disabling effects of bowel or bladder impairment by evaluating the ability of an individual to engage in ordinary day-to-day activities, we will provide for special review consideration

where treatment procedures for spina bifida result in disability of equivalent severity to the effects specified under Levels II and III.

The same organization has recommended that we use the results of cystometry with urodynamic testing, a method of directly measuring certain bladder functions, such as muscle tone and bladder capacity, when evaluating bladder impairment. The main value of urodynamic testing is to determine the most appropriate treatment and to evaluate the effectiveness of the treatment. Urodynamic testing does not address the individual's ability to engage in ordinary day-to-day activities, which is the basis of the evaluation criteria. Furthermore, requiring claimants to undergo these additional tests if they are not available from their private medical records would be unnecessarily intrusive and would not add to the evaluation process. Accordingly, we do not propose to incorporate urodynamic testing into the criteria.

The effects of bowel impairment may include difficulty emptying the bowel, fecal leakage, or both. We propose to evaluate the effects of bowel impairment based on the extent and frequency of fecal leakage and the degree to which the individual is able to control or modify the effects of impairment through bowel management techniques or other treatment (which would include suppositories, enemas, medication, biofeedback, behavior modification, diet, manual evacuation, etc.). We propose to determine the severity of fecal leakage based partly on whether or not the individual must wear absorbent materials on a daily basis. We propose that an individual who requires bowel management techniques or other treatment to control the effects of bowel impairment, but has only occasional or minimal fecal leakage, and does not need to wear absorbent materials every day, be evaluated at Level II. On the other hand, we propose that an individual who, despite the use of bowel management techniques or other treatment to control the effects of bowel impairment, has fecal leakage of such severity or frequency that he or she must wear absorbent materials every day, be evaluated at Level III. We also propose that an individual who regularly requires manual evacuation or digital stimulation to empty the bowel be evaluated at Level III, since these procedures may significantly interfere with ordinary day-to-day activities. We propose to substitute these criteria for the current requirement at Level III that there be ''complete fecal incontinence.'' The proposed criteria would take into account the extent to which fecal leakage limits the individual's ability to engage in ordinary day-to-day activities, and would enable raters to consistently and objectively evaluate individuals who, although neither totally continent nor incontinent, have partial control of the effects of bowel or bladder impairment.

One organization has stated that, under VA's Schedule for Rating Disabilities, evaluations of disability of the bowel or bladder are based on the actual loss of function and control without regard to the use of auxiliary means and that it is self-evident that VA should use the same criteria for individuals with spina bifida to avoid rating inconsistencies. Section 1155 of title 38, United States Code, the statutory authority for VA's Schedule for Rating Disabilities, provides that evaluations of disabled veterans be based, as far as practicable, upon average impairment of earning capacity, and be at one of ten grades in 10 percent increments. Section 1805(b) of title 38, United States Code, on the other hand, authorizes VA to pay a monetary allowance to an eligible child with spina bifida at one of three levels based on the degree of disability as determined in accordance with a schedule for rating such disabilities ''to be prescribed by the Secretary.'' By codifying the requirement elsewhere than 38 U.S.C. 1155, by requiring evaluations at three levels rather than 10, and by not directing that evaluations be based on average impairment of earning capacity or be expressed in percentages, we believe that Congress expected that we would not use the rating schedule for evaluating disabilities resulting from spina bifida.

At the urging of a number of service organizations, we considered using neurocognitive testing in lieu of standard IQ testing to measure the effects of intellectual impairment. However, we found no medical literature describing or assessing a standard method of neurocognitive screening to assess the effects of spina bifida. Major studies of disability due to spina bifida, such as ''Disability in Children with Myelomeningocele'' (J.H. Hagelsteen, J. Lagergren, H.R. Lie, F. Rasmussen, M.C. Borjeson, B. Lagerkvist, M. Muttilainen, K. Taudorf, and L. Kohler, *Acta Paediatrica Scandinavica,* 1989, 78 (5): 721–7), ''Long-term Outcome in Surgically Treated Spina Bifida Cystica''; (Isao Date, M.D., Yasunori Yagyu, M.D., Shoji Asari, M.D., and Takshi Ohmoto, M.D., *Surg. Neurol.* 1993, 40:471–5), and ''Open spina bifida: a complete cohort reviewed 25 years after closure'' (Urology Department, Addenbrooke's Hospital, Cambridge, UK *Dev Med Child Neurol* 1995 Jan;37(1):19–29) used IQ test results to measure intellectual impairment. These documents did not mention neurocognitive testing. Furthermore, neurocognitive testing is a complex and time-consuming process, involves many testing variables, and is neither as widely available nor as standardized as IQ testing. Therefore, in our judgment, it is not feasible to use neurocognitive testing to measure the effects of intellectual impairment due to spina bifida.

A number of sources have suggested that verbal and performance IQ subscores are a better measure of impaired intellect than the overall IQ score, but offered no evidence to support that contention. The three studies referred to above relied on the overall IQ score rather than the subscores to measure intellectual impairment in individuals with spina bifida. We conducted a further search of the medical literature, but found no evidence that IQ subscores are a better measure of intellectual impairment than the overall IQ score. We therefore propose to continue using overall IQ scores to evaluate intellectual impairment.

Although the evaluation criteria are based on the disabling effects of the most common, indeed nearly universal, medical impairments that result from spina bifida, individuals may have other disabilities that result from spina bifida. Several organizations have expressed concern that individuals with conditions such as blindness or seizures resulting from spina bifida might be underpaid under the current criteria. We therefore propose to allow the Director of the Compensation and Pension Service to increase the payment level of an individual who would otherwise be paid at Level I or II and has one or more disabilities, such as blindness, uncontrolled seizures, or renal failure that result either from spina bifida or from treatment procedures for spina bifida, to the level that, in his or her judgment, best represents the extent to which the disabilities limit the individual's ability to engage in ordinary day-to-day activities, including activities outside the home. This provision would allow the Director to award an increase in the level of payment to Level II or Level III for any type of disability resulting from spina bifida or treatment procedures for spina bifida, if the effects of a disability are of equivalent severity to the effects specified under Level II or III. Therefore, should the results of neurocognitive testing or other special examinations,

for example, be submitted, they could be considered, along with all other medical information, in determining whether the level of payment should be increased.

Since only a very limited number of individuals are eligible for the monthly monetary allowance for spina bifida, reserving the authority to increase payments based on disabilities not addressed in the evaluation criteria to the Director of the Compensation and Pension Service is feasible. Further, this procedure will assure that the Compensation and Pension Service is aware of any conditions occurring frequently enough to warrant further revisions of the criteria.

Although the current regulation uses the terms ''child'' and ''children,'' many of those entitled to this benefit are now adolescents or adults. Therefore, we propose to change the words ''child'' or ''children'' to ''individual'' or ''individuals'' throughout § 3.814. We also propose to define the term ''individual'' in § 3.814(c)(2). This definition will make it clear that this regulation applies to eligible individuals regardless of age.

We also propose to amend the regulations to provide that, when VA is required to reassess an individual's level of disability for purposes of the monetary allowance, VA will pay the individual at Level I in the absence of evidence adequate to support a higher level of disability or if the individual fails to report, ''without good cause'' for a scheduled examination, and to provide examples of good cause. This provision is similar to 38 CFR 3.655(a), ''Failure to report for Department of Veterans Affairs examination,'' as applied to other VA claimants.

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. This amendment would not directly affect any small entities. Only individuals 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 3**

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Radioactive materials, Veterans, Vietnam.

Approved: November 18, 1999.

**Togo D. West, Jr.,**

*Secretary of Veterans Affairs.*

For the reasons set out in the preamble, 38 CFR part 3 is proposed to be amended as set forth below:

## PART 3—ADJUDICATION

## Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A, continues to read as follows:

**Authority:** 38 U.S.C. 501(a), unless otherwise noted.

2. In § 3.814, the heading for the section and paragraphs (a), (c)(2), and (d) are revised to read as follows:

### § 3.814 Monetary allowance under 38 U.S.C. 1805 for an individual suffering from spina bifida whose biological father or mother is or was a Vietnam veteran.

(a) VA will pay a monthly allowance based upon the level of disability determined under the provisions of paragraph (d) of this section to or for an individual who it has determined is suffering from spina bifida and whose biological father or mother is or was a Vietnam veteran. Receipt of this allowance will not affect the right of the individual or any other related individual to receive any other benefit to which he or she may be entitled under any law administered by VA. An individual suffering from spina bifida is entitled to only one monthly allowance under this section, even if the individual's biological father and mother are or were both Vietnam veterans.

* * * * *

(c) * * *

(2) *Individual.* For the purposes of this section, the term ''individual'' means a person, regardless of age or marital status, whose biological father or mother is or was a Vietnam veteran and who was conceived after the date on which the veteran first served in the Republic of Vietnam during the Vietnam era. Notwithstanding the provisions of § 3.204(a)(1), VA shall require the types of evidence specified in §§ 3.209 and 3.210 sufficient to establish in the judgment of the Secretary that an individual's biological father or mother is or was a Vietnam veteran.

(d) (1) Except as otherwise specified in this paragraph, VA will determine the level of payment as follows:

(i) *Level I.* The individual walks without braces or other external support as his or her primary means of mobility in the community, has no sensory or motor impairment of the upper extremities, has an IQ of 90 or higher, and is continent of urine and feces without the use of medication or other means to control incontinence.

(ii) *Level II.* Provided that none of the disabilities is severe enough to warrant payment at Level III, and the individual: walks with braces or other external support as his or her primary means of mobility in the community; or, has sensory or motor impairment of the upper extremities, but is able to grasp pen, feed self, and perform self care; or, has an IQ of at least 70 but less than 90; or, requires medication or other means to control the effects of urinary bladder impairment and is unable no more than two times per week to remain dry for at least three hours at a time during waking hours; or, requires bowel management techniques or other treatment to control the effects of bowel impairment but does not have fecal leakage severe or frequent enough to require daily wearing of absorbent materials.

(iii) *Level III.* The individual uses a wheelchair as his or her primary means of mobility in the community; or, has sensory or motor impairment of the upper extremities severe enough to prevent grasping a pen, feeding self, and performing self care; or, has an IQ of 69 or less; or, despite the use of medication or other means to control the effects of urinary bladder impairment, at least three times per week is unable to remain dry for three hours at a time during waking hours; or, despite bowel management techniques or other treatment to control the effects of bowel impairment, has fecal leakage severe or frequent enough to require daily wearing of absorbent materials; or regularly requires manual evacuation or digital stimulation to empty the bowel.

(2) If an individual who would otherwise be paid at Level I or II has one or more disabilities, such as blindness, uncontrolled seizures, or renal failure that result either from spina bifida, or from treatment procedures for spina bifida, the Director of the Compensation and Pension Service may increase the monthly payment to the level that, in his or her judgment, best represents the extent to which the disabilities resulting from spina bifida limit the individual's ability to engage in ordinary day-to-day activities, including activities outside the home. A Level II or Level III

payment will be awarded depending on whether the effects of a disability are of equivalent severity to the effects specified under Level II or Level III.

(3) VA may accept statements from private physicians, or examination reports from government or private institutions, for the purpose of rating spina bifida claims without further examination, provided the statements or reports are adequate for assessing the level of disability due to spina bifida under the provisions of paragraph (d)(1) of this section. In the absence of adequate medical information, VA will schedule an examination for the purpose of assessing the level of disability.

(4) VA will pay an individual eligible for a monetary allowance due to spina bifida at Level I unless or until it receives medical evidence supporting a higher payment. When required to reassess the level of disability under paragraph (d)(5) or (d)(6) of this section, VA will pay an individual eligible for this monetary allowance at Level I in the absence of evidence adequate to support a higher level of disability or if the individual fails to report, without good cause, for a scheduled examination. Examples of good cause include, but are not limited to, the illness or hospitalization of the claimant, death of an immediate family member, etc.

(5) VA will pay individuals under the age of one year at Level I unless a pediatric neurologist or a pediatric neurosurgeon certifies that, in his or her medical judgment, there is a neurological deficit that will prevent the individual from ambulating, grasping a pen, feeding himself or herself, performing self care, or from achieving urinary or fecal continence. If any of those deficits are present, VA will pay the individual at Level III. In either case, VA will reassess the level of disability when the individual reaches the age of one year.

(6) VA will reassess the level of payment whenever it receives medical evidence indicating that a change is warranted. For individuals between the ages of one and twenty-one, however, it must reassess the level of payment at least every five years.

(Authority: 38 U.S.C. 501, 1805)

[FR Doc. 00–6066 Filed 3–10–00; 8:45 am]

BILLING CODE 8320–01–P

## POSTAL SERVICE

## 39 CFR Part 111

## Delivery of Mail to a Commercial Mail Receiving Agency

**AGENCY:** Postal Service.

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** The purpose of this proposal is to amend section D042.2.6(e) of the Domestic Mail Manual (DMM) to revise the requirements for delivery of an addressee's mail to a commercial mail receiving agency. The proposal provides an additional optional secondary address designation element that may be used in the delivery address of holders of private mailboxes.

**DATES:** Comments must be received on or before April 12, 2000.

**ADDRESSES:** Written comments should be mailed to Manager, Delivery, U.S. Postal Service, 475 L'Enfant Plaza SW Room 7142, Washington, DC 20260–2802. Copies of all written comments will be available for inspection and photocopying between 9:00 a.m. and 4:00 p.m., Monday through Friday, at the above address.

**FOR FURTHER INFORMATION CONTACT:** Roy E. Gamble, (202) 268–3197.

**SUPPLEMENTARY INFORMATION:** On March 25, 1999, the Postal Service published a final rule in the **Federal Register** adopting revised regulations governing the operation of commercial mail receiving agencies (CMRAs) with an effective date of April 26, 1999 (64 FR 14385). One of the revised rules, Domestic Mail Manual (DMM) D042.2.6(e), required the use of ''PMB'' (private mailbox) in the complete mailing address of all CMRA customers. The Postal Service believes the required use of ''PMB'' in the CMRA customer's private mailbox address will provide CMRA mailbox holders' correspondents with the true identity of the mailing address of the mailbox holder. Under previous standards, many CMRA mailbox holders used addresses bearing secondary address indicators such as ''Suite,'' ''Apartment,'' or other designator indicating a physical presence at that street address. The Postal Service adopted the ''PMB'' designation to ensure that the public would be aware that the address is not a physical location and thereby discourage fraudulent or deceptive practices that might adversely affect senior citizens and other consumers, businesses, and even federal, state, and local governments.

This proposal to amend DMM D042.2.6(e) is an outgrowth of meetings the Postal Service conducted after publication of the revised rules with various groups representing the CMRA industry, small businesses, the self-employed, small and home office (SOHO) operators, and government organizations. Some of these participants asserted, as had commentors during the rulemaking, that the use of the ''PMB'' designation would have a negative effect on the businesses of CMRA mailbox holders. That is, they asserted that some consumers might be discouraged from doing business with CMRA mailbox holders due to perceptions that those businesses are somehow ''unsavory.'' Although the Postal Service, as discussed in the March 25 rulemaking, is not convinced that this would happen, it nonetheless wishes to ensure that this unintended consequence does not occur. During the discussions referenced above, some of the participants proposed a modification that would allow private mailbox holders the alternative to use the ''#'' sign in lieu of ''PMB'' in their mailing addresses at a CMRA. Although the Postal Service believes that the rule adopted on March 25, 1999, best serves the consumer protection needs of the American public, it nevertheless wishes to balance this goal with the concerns of the small business community. The Postal Service believes that the proposal outlined herein balances these interests.

### Summary of Proposed Change

Proposed DMM section D042.2.6(e) provides that the CMRA delivery address designation for customer's mail must contain specific address elements identifying it as the location to which a mailpiece is delivered. Unlike the current rule, the proposed rule would permit use of the ''#'' sign as an alternative to the ''PMB'' designation, the only authorized secondary designation that may be used in the delivery address under the rules published on March 25, 1999. As with that rule, the mailbox holder would not be permitted to use ''Suite,'' ''Apartment,'' or any other designator indicating a physical presence at the address. Instead, it would require the use of the designation ''PMB'' or the alternate ''#'' designation, along with the appropriate unique number assigned to the mailbox holder by the CMRA.

Current standards specify that a four-line format should be used for CMRA customer addresses. Domestic Mail Manual section D042.2.6(e) remains the preferred format. Nevertheless, CMRA customers will be permitted an option to use a three-line format, if the sender of the mailpiece is unable to provide the four-line format due to computer