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**This is supplemental material
for Book C of your set of
Federal Regulations**

Title 38, Part 4

Schedule for Rating Disabilities

Veterans Benefits Administration

Supplement No. 50

Covering period of *Federal Register* issues
through January 1, 2012

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GENERAL INSTRUCTIONS

Custom Federal Regulations Service™

Supplemental Materials for *Book C*

Code of Federal Regulations

Title 38, Part 4

Schedule for Rating Disabilities

Veterans Benefits Administration

Supplement No. 50

5 January 2012

Covering the period of Federal Register issues
through January 1, 2012

When **Book C** was originally prepared, it was current through final regulations published in the *Federal Register* of 24 March 1992. These supplemental materials are designed to keep your regulations up to date. You should file the attached pages immediately, and record the fact that you did so on the *Supplement Filing Record* which is at page C-8 of Book C, *Schedule for Rating Disabilities*.

**To ensure accuracy and timeliness of your materials,
it is important that you follow these simple procedures:**

1. Always file your supplemental materials immediately upon receipt.
2. Before filing, always check the Supplement Filing Record (page C-8) to be sure that all prior supplements have been filed. If you are missing any supplements, contact the Veterans Benefits Administration at the address listed on page C-2.
3. After filing, enter the relevant information on the Supplement Filing Record sheet (page C-8)—the date filed, name/initials of filer, and date through which the *Federal Register* is covered.
4. If as a result of a failure to file, or an undelivered supplement, you have more than one supplement to file at a time, be certain to file them in chronological order, lower number first.
5. Always retain the filing instructions (simply insert them at the back of the book) as a backup record of filing and for reference in case of a filing error.
6. Be certain that you *permanently discard* any pages indicated for removal in the filing instructions in order to avoid confusion later.

To execute the filing instructions, simply remove *and throw away* the pages listed under *Remove These Old Pages*, and replace them in each case with the corresponding pages from this supplement listed under *Add These New Pages*. Occasionally new pages will be added without removal of any old material (reflecting new regulations), and occasionally old pages will be removed without addition of any new material (reflecting rescinded regulations)—in these cases the word *None* will appear in the appropriate column.

FILING INSTRUCTIONS

**Book C, Supplement No. 50
January 5, 2012**

<i>Remove these <u>old pages</u></i>	<i>Add these <u>new pages</u></i>	<i>Section(s) <u>Affected</u></i>
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**Do not file this supplement until you confirm that
all prior supplements have been filed**

4.124a-2 to 4.124a-3	4.124a-2 to 4.124a-3	§4.124a
4.124a-22 to 4.124a-23	4.124a-22 to 4.124a-23	§4.124a

**Be sure to complete the
Supplement Filing Record (page C-8)
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HIGHLIGHTS

Book C, Supplement No. 50 January 5, 2012

Supplement Highlights references: Where substantive changes are made in the text of regulations, the paragraphs of *Highlights* sections are cited at the end of the relevant section of text. Thus, if you are reading §3.263, you will see a note at the end of that section which reads: “Supplement *Highlights* references—6(2).” This means that paragraph 2 of the *Highlights* section in Supplement No. 6 contains information about the changes made in §3.263. By keeping and filing the *Highlights* sections, you will have a reference source explaining all substantive changes in the text of the regulations.

Supplement frequency: This Book C (*Schedule for Rating Disabilities*) was originally supplemented four times a year, in February, May, August, and November. Beginning 1 August 1995, supplements will be issued *every month* during which a final rule addition or modification is made to the parts of Title 38 covered by this book. Supplements will be numbered consecutively as issued.

Modifications in this supplement include the following:

1. On 20 December 2011, the VA published a final rule, effective 19 January 2012, to amend its Schedule for Rating Disabilities by revising the disability evaluation criterion provided for amyotrophic lateral sclerosis (ALS) to provide an evaluation of 100 percent for any veteran with service-connected ALS. Change:

- In §4.124a, revised diagnostic code 8017.



8011 Poliomyelitis, anterior:
 As active febrile disease.....100
 Rate residuals, minimum10

8012 Hematomyelia:
 For 6 months100
 Rate residuals, minimum10

8013 Syphilis, cerebrospinal.

8014 Syphilis, meningovascular.

8015 Tabes dorsalis.

Note: Rate upon the severity of convulsions, paralysis, visual impairment or psychotic involvement, etc.

8017 Amyotrophic lateral sclerosis:
 Minimum rating100
 Note: Consider the need for special monthly compensation.

8018 Multiple sclerosis:
 Minimum rating30

8019 Meningitis, cerebrospinal, epidemic:
 As active febrile disease.....100
 Rate residuals, minimum10

8020 Brain, abscess of:
 As active disease100
 Rate residuals, minimum10

Spinal cord, new growths of:

8021 Malignant 100
 Note: The rating in code 8021 will be continued for 2 years following cessation of surgical, chemotherapeutic or other treatment modality. At this point, if the residuals have stabilized, the rating will be made on neurological residuals according to symptomatology.
 Minimum rating30

8022 Benign, minimum rating60
 Rate residuals, minimum10

8023 Progressive muscular atrophy:
 Minimum rating30

8024 Syringomyelia:
 Minimum rating30

8025 Myasthenia gravis:
 Minimum rating30

Note: It is required for the minimum ratings for residuals under diagnostic codes 8000-8025, that there be ascertainable residuals. Determinations as to the presence of residuals not capable of objective verification, i.e., headaches, dizziness, fatigability, must be approached on the basis of the diagnosis recorded; subjective residuals will be accepted when consistent with the disease and not more likely attributable to other disease or no disease. It is of exceptional importance that when ratings in excess of the prescribed minimum ratings are assigned, the diagnostic codes utilized as bases of evaluation be cited, in addition to the codes identifying the diagnoses.

8045 Residuals of traumatic brain injury (TBI):

There are three main areas of dysfunction that may result from TBI and have profound effects on functioning: cognitive (which is common in varying degrees after TBI), emotional/behavioral, and physical. Each of these areas of dysfunction may require evaluation.

Cognitive impairment is defined as decreased memory, concentration, attention, and executive functions of the brain. Executive functions are goal setting, speed of information processing, planning, organizing, prioritizing, self-monitoring, problem solving, judgment, decision making, spontaneity, and flexibility in changing actions when they are not productive. Not all of these brain functions may be affected in a given individual with cognitive impairment, and some functions may be affected more severely than others. In a given individual, symptoms may fluctuate in severity from day to day. Evaluate cognitive impairment under the table titled “Evaluation of Cognitive Impairment and Other Residuals of TBI Not Otherwise Classified.”

Subjective symptoms may be the only residual of TBI or may be associated with cognitive impairment or other areas of dysfunction. Evaluate subjective symptoms that are residuals of TBI, whether or not they are part of cognitive impairment, under the subjective symptoms facet in the table titled “Evaluation of Cognitive Impairment and Other Residuals of TBI Not Otherwise Classified.” However, separately evaluate any residual with a distinct diagnosis that may be evaluated under another diagnostic code, such as migraine headache or Meniere’s disease, even if that diagnosis is based on subjective symptoms, rather than under the “Evaluation of Cognitive Impairment and Other Residuals of TBI Not Otherwise Classified” table.

Evaluate emotional/behavioral dysfunction under §4.130 (Schedule of ratings—mental disorders) when there is a diagnosis of a mental disorder. When there is no diagnosis of a mental disorder, evaluate emotional/behavioral symptoms under the criteria in the table titled “Evaluation of Cognitive Impairment and Other Residuals of TBI Not Otherwise Classified.”

Evaluate physical (including neurological) dysfunction based on the following list, under an appropriate diagnostic code: Motor and sensory dysfunction, including pain, of the extremities and face; visual impairment; hearing loss and tinnitus; loss of sense of smell and taste; seizures; gait, coordination, and balance problems; speech and other communication difficulties, including

unemployability is due to epilepsy and jurisdiction is not vested in that body by reason of schedular evaluations, the case should be submitted to the Director, Compensation and Pension Service.

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

[29 FR 6718, May 22, 1964, as amended at 40 FR 42540, Sept. 15, 1975; 41 FR 11302, Mar. 18, 1976; 43 FR 45362, Oct. 2, 1978; 54 FR 4282, Jan. 30, 1989; 54 FR 49755, Dec. 1, 1989; 55 FR 154, Jan. 3, 1990; 56 FR 51653, Oct. 15, 1991; 57 FR 24364, June 9, 1992; 70 FR 75399, Dec. 20, 2005; 73 FR 54705, Sept. 23, 2008; 73 FR 69554, Nov. 19, 2008; 76 FR 78824, Dec. 20, 2011]

Supplement *Highlights* references: 39(1), 45(1), 50(1).

Next Section is §4.125

Reserved