

and will include the Secretary's recommendations for changes to the statutory or regulatory provisions that were the subject of the waivers or modifications.

EFFECTIVE DATE: May 14, 2003.

FOR FURTHER INFORMATION CONTACT: Mr. George Harris, Senior Program Specialist, Office of Postsecondary Education, U.S. Department of Education, 1990 K Street, NW, (8th Floor) Washington, DC 20006. Telephone: (202) 502-7521.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the program contact persons listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION: The Secretary is waiving or modifying the following provisions of the HEA and regulations:

Federal Perkins Loan Program

Under 34 CFR 674.33(d)(2) and section 464(e) of the HEA, there is a 3-year cumulative limit on the length of forbearances that a Perkins loan borrower can receive. To assist Perkins Loan borrowers described in the **SUMMARY** section of this notice, the Secretary is waiving these statutory and regulatory requirements so that any forbearance based on a borrower's military service is excluded from this 3-year cumulative limit.

Federal Family Education Loan (FFEL) Program, Federal Direct Loan Program, and Federal Perkins Loan Program

Depending on the loan program, borrowers may qualify for loan cancellation if they are employed full-time in specified occupations, such as teachers, childcare providers, or law enforcement officers, pursuant to sections 428J(b)(1), 428K(d)(1), 460(b)(1), and 465(a)(2)(A)-(I) and (a)(3) of the HEA, 34 CFR 674.53(d), 674.55(a)(2), 674.55(b)(5), 674.55(c)(2), 674.56(d)(1), 674.57(b)(1), 674.58(b), 674.60(b), 34 CFR 682.215(d)(1), and 34 CFR 685.217(d)(1). Generally, borrowers must perform uninterrupted, otherwise qualifying service for a specified length of time (for example, one year) or for consecutive periods of time, such as 5 consecutive years, to be eligible for loan cancellation. For all borrowers described in the **SUMMARY** section of this notice, the Secretary is waiving the requirements in the various loan

cancellation provisions that such periods of service be uninterrupted and/or consecutive. Loan holders should not consider the time that these borrowers are on active duty as an interruption in the required service for the borrower to receive a loan cancellation.

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(Catalog of Federal Domestic Assistance Numbers: 84.032 Federal Family Education Loan Program; 84.038 Federal Perkins Loan Program; and 84.268 William D. Ford Federal Direct Loan Program)

Program Authority: 20 U.S.C. 1071, 1087a, 1087aa.

Dated: May 8, 2003.

Sally L. Stroup,

Assistant Secretary, Office of Postsecondary Education.

[FR Doc. 03-11982 Filed 5-13-03; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4

RIN 2900-AK86

Schedule for Rating Disabilities: Evaluation of Tinnitus

AGENCY: Department of Veterans Affairs.
ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) Schedule for Rating Disabilities to state more explicitly the method of evaluation of tinnitus under diagnostic code 6260 in the portion of the rating schedule that addresses evaluation of disabilities of the ear. The intended effect of this action is to codify current

standard VA practice by stating that recurrent tinnitus will be assigned only a single 10-percent evaluation whether it is perceived in one ear, both ears, or somewhere in the head.

EFFECTIVE DATE: This amendment is effective June 13, 2003.

FOR FURTHER INFORMATION CONTACT: Audrey Tomlinson, Medical Officer, Regulations Staff (211A), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Ave., NW., Washington DC 20420, (202) 273-7215.

SUPPLEMENTARY INFORMATION: On September 19, 2002, VA published in the **Federal Register** (67 FR 59033) a proposal to amend diagnostic code 6260 in 38 CFR 4.87, in order to codify current standard VA practice concerning the evaluation of tinnitus. It states that recurrent tinnitus will be assigned only a single ten-percent evaluation, whether it is perceived in one ear, both ears, or somewhere in the head. Interested persons were invited to submit written comments on or before November 18, 2002. We received two comments, one from the American Legion and one from a concerned individual.

One commenter felt that limiting tinnitus to a single ten-percent evaluation is arbitrary and inconsistent with other provisions of VA's Schedule for Rating Disabilities that deal with bilateral disabilities, such as those providing separate evaluations for each ear with hearing impairment. The same commenter felt that the proposed rule document offered no substantive rationale for maintaining the current assignment of a single evaluation for tinnitus, regardless of whether it is perceived in one or both ears.

We disagree. VA's Audiology and Speech Pathology Service recently wrote a booklet titled *Hearing Impairment*, an Independent Study Course for health care providers. The section on tinnitus states that the fact that most tinnitus appears to be coming from the ear led to a belief that tinnitus was generated in the inner ear, but this is not the case. It further states that damage in the inner ear may be a precursor for subjective tinnitus, but that subjective tinnitus is generated within the central auditory pathways. Comparing tinnitus, a central nervous condition, to hearing loss, a disability from damage to an organ of special sense (the ear) is not a valid comparison. We have made no change in response to this comment. Because over 200,000 veterans are currently rated for tinnitus under diagnostic code 6260 under Diseases of the Ear, for

administrative efficiency, and because many are accustomed to looking in that section of the rating schedule, the current placement of tinnitus within the rating schedule will remain unchanged.

The **SUPPLEMENTARY INFORMATION** section of the proposed regulatory amendment explained that tinnitus is a single disability arising in the brain and that it consists of the perception of sound in the absence of an external stimulus. This definition applies whether the tinnitus is perceived in one ear, both ears, or somewhere undefined in the head. The commenter provided no information that would refute this medical explanation. The degree of disability, that is, the degree to which tinnitus impairs the veteran's earning capacity, is the same regardless of how the tinnitus is perceived. To rate each ear separately for this single disability would violate the prohibition on pyramiding, 38 CFR 4.14. Similarly, to rate each ear separately would be a violation of the principle of 38 CFR 4.25(b) that a "single disease entity" is to be given a single rating. A single evaluation for a single disability is appropriate. We have made no change based on this comment.

A second commenter suggested that we adopt measurable time and duration standards for the term "recurrent." Because a substantive change to define the term "recurrent" is beyond the scope of this rulemaking, we have made no change based on this comment.

VA appreciates the comments 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 without change.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

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.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, 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.

Catalog of Federal Domestic Assistance Numbers

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 14, 2003.

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 § 4.87, diagnostic code 6260 is revised to read as follows:

§ 4.87 Schedule of ratings—ear.

DISEASES OF THE EAR					Rating
*	*	*	*	*	
6260	Tinnitus, recurrent			10

Note (1): A separate evaluation for tinnitus may be combined with an evaluation under diagnostic codes 6100, 6200, 6204, or other diagnostic code, except when tinnitus supports an evaluation under one of those diagnostic codes.

Note (2): Assign only a single evaluation for recurrent tinnitus, whether the sound is

perceived in one ear, both ears, or in the head.

Note (3): Do not evaluate objective tinnitus (in which the sound is audible to other people and has a definable cause that may or may not be pathologic) under this diagnostic code, but evaluate it as part of any underlying condition causing it.

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

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 89

[AMS–FRL–7498–2]

Control of Emissions From New Nonroad Diesel Engines: Amendments to the Nonroad Engine Definition: Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to receipt of adverse comments, EPA is withdrawing amendments that were included in the direct final rule published on April 11, 2003 (68 FR 17741), amending the definition of nonroad engines to also include all engines certified as part of a nonroad engine family if used in agricultural applications in the State of California. Because this amendment is being withdrawn, the existing definition regarding nonroad engines remains in effect. We will address the adverse comments in a subsequent final action based on the parallel proposal published on April 11, 2003 (68 FR 17763).

DATES: The following provision of the direct final rule published at 68 FR 17741 (April 11, 2003) is withdrawn as of May 14, 2003:

(1) The revision to 40 CFR 89.2, definition of "Nonroad engine", paragraph (1)(iv).

ADDRESSES: All comments and materials relevant to today's action are contained in Public Docket No. OAR–2003–0046 at the following address: U.S. Environmental Protection Agency (EPA), EPA Docket Center (EPA/DC), Air and Radiation Docket, Mail Code 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

Docket: Materials relevant to this rulemaking are contained in Public Docket Number OAR–2003–0046 at the following address: EPA Docket Center (EPA/DC), Public Reading Room, Room B102, EPA West Building, 1301