

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