	Rating
Affecting 20 to 40 percent of the scalp	10
Affecting less than 20 percent of the scalp	0
7831 Alopecia areata:	
With loss of all body hair	10
With loss of hair limited to scalp and face	0
7832 Hyperhidrosis:	
Unable to handle paper or tools because of moisture, and unresponsive to therapy	30
Able to handle paper or tools after therapy	0
7833 Malignant melanoma: Rate as scars (DC's 7801, 7802, 7803, 7804, or 7805), disfigurement of the head, face, or neck (DC 7800), or impairment of function (under the appropriate body system).	
Note: If a skin malignancy requires therapy that is comparable to that used for systemic malignancies, i.e., systemic chemotherapy, X-ray therapy more extensive than to the skin, or surgery more extensive than wide local excision, a 100-percent evaluation will be assigned from the date of onset of treatment, and will continue, with a mandatory VA examination six months following the completion of such antineoplastic treatment, and any change in evaluation based upon that or any subsequent examination will be subject to the provisions of § 3.105(e). If there has been no local recurrence or metastasis, evaluation will then be made on residuals. If treatment is confined to the skin, the provisions for a 100-percent evaluation do not apply.	

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

[FR Doc. 02–19331 Filed 7–30–02; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 20

RIN 2900–AL25

Board of Veterans' Appeals: Rules of Practice—Attorney Fee Matters; Notice of Disagreement Requirement

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the regulations of the Department of Veterans Affairs (VA) relating to attorney fees. We are removing the requirement that, in order for an agent or attorney to charge a fee for services provided in a case, there must have been a notice of disagreement filed in the case on or after November 18, 1988. This change is required by a statute enacted in December 2001.

DATES: *Effective Date:* December 27, 2001.

FOR FURTHER INFORMATION CONTACT: Steven L. Keller, Senior Deputy Vice Chairman, Board of Veterans' Appeals, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 565–5978.

SUPPLEMENTARY INFORMATION: The Board of Veterans' Appeals (Board) is an administrative body that decides appeals from denials of claims for veterans' benefits. The Board's Rules of Practice (38 CFR part 20) contain VA's regulations relating to attorney-fee matters.

The issues of whether and how much an agent or attorney may charge for services provided in a case involving a claim for veterans' benefits have always been highly regulated by Congress. From 1864 until 1988, such fees were limited to $10.00. In 1988, Congress passed the ''Veterans' Judicial Review Act'' (VJRA), Pub. L. No. 100–687, Div. A, 102 Stat. 4105, which permitted agents and attorneys to charge a ''reasonable fee'' for services provided in a case when the following three conditions were met:

- The Board made its first final decision in the case;
- The Board's first final decision followed a ''notice of disagreement'' filed with VA on or after the enactment date of the VJRA, i.e., November 18, 1988; and
- The agent or attorney was retained with respect to such case within one year of the date of the Board s first final decision.

38 U.S.C. 5904(c)(1); Pub. L. No. 100–687, Div. A, § 403, 102 Stat. 4105, 4122, *reprinted in* 38 U.S.C.A. 5904 note (Applicability to Attorneys Fees) (notice of disagreement date).

In § 603(b) of the ''Veterans Education and Benefits Expansion Act of 2001'', Pub. L. No. 107–103, 115 Stat. 976, 999 (Dec. 27, 2001), Congress repealed the requirement that, in order for an agent or attorney to charge a fee for services provided in a case, the Board's first final decision must have followed a notice of disagreement filed on or after November 18, 1988. This document implements that change in VA's regulations.

This change does not affect the requirements that, in order for an agent or attorney to charge a fee for services provided in a case, (1) the Board must have made its first final decision in that case, and (2) the agent or attorney must have been retained with respect to such case within one year of the date of the Board's first final decision.

Administrative Procedure Act

Because this rule merely implements a change in the statute, notice and public comment are unnecessary. 5 U.S.C. 553(b)(B). Accordingly, we are publishing this amendment as a final rule.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532) requires 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 final rule would have no consequential effect on State, local, or tribal governments.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This amendment will not directly affect any small entities. Only individuals could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

List of Subjects in 38 CFR Part 20

Administrative practice and procedure, Claims, Veterans.

Approved: July 3, 2002.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 20 is amended as set forth below:

PART 20—BOARD OF VETERANS' APPEALS: RULES OF PRACTICE

1. The authority citation for part 20 continues to read as follows:

Authority: 38 U.S.C. 501(a) and as noted in specific sections.

2. In § 20.609, paragraph (c) is revised to read as follows:

§ 20.609 Rule 609. Payment of representative's fees in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.

* * * * *

(c) *Circumstances under which fees may be charged.* (1) *General.* Except as noted in paragraph (d) of this section, attorneys-at-law and agents may charge claimants or appellants for their services only if both of the following conditions have been met:

(i) A final decision has been promulgated by the Board of Veterans' Appeals with respect to the issue, or issues, involved; and

(ii) The attorney-at-law or agent was retained not later than one year following the date that the decision by the Board of Veterans' Appeals with respect to the issue, or issues, involved was promulgated. (This condition will be considered to have been met with respect to all successor attorneys-at-law or agents acting in the continuous prosecution of the same matter if a predecessor was retained within the required time period.)

(2) *Clear and unmistakable error cases.* For the purposes of this section, in the case of a motion under subpart O of this part (relating to requests for revision of prior Board decisions on the grounds of clear and unmistakable error), the ''issue'' referred to in this paragraph (c) shall have the same meaning as ''issue'' in Rule 1401(a) (§ 20.1401(a) of this part).

* * * * *

[FR Doc. 02–19330 Filed 7–30–02; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[KY–116; KY–119–200214(d); FRL–7252–8]

Approval and Promulgation of Implementation Plans Reinstatement of Redesignation of Area for Air Quality Planning Purposes; Kentucky Portion of the Cincinnati-Hamilton Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is finalizing the reinstatement of the redesignation to attainment for the 1-hour ozone National Ambient Air Quality Standard (NAAQS) for the Kentucky portion of the Cincinnati-Hamilton area. This final rule addresses these comments made on EPA direct final rulemaking previously published for this action.

DATES: This final rule is effective August 30, 2002.

ADDRESSES: Copies of the Commonwealth of Kentucky's original redesignation request, the Court's ruling and other information are available for inspection during normal business hours at EPA Region 4, Air Planning Branch, 61 Forsyth Street, Atlanta, Georgia 30303–8960; Persons wishing to examine these documents should make an appointment at least 24 hours before the visiting day and reference file KY–116.

Copies of the Commonwealth of Kentucky's original redesignation request are also available at Commonwealth of Kentucky, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601–1403.

FOR FURTHER INFORMATION CONTACT: Michele Notarianni at the EPA Region 4 address listed above or 404–562–9031 (phone) or *notarianni.michele@epa.gov* (e-mail).

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Today's Action

In this final rulemaking, EPA is responding to comments received regarding a direct final and proposed rule to reinstate the redesignation to attainment for the 1-hour ozone NAAQS for the Kentucky portion of the Cincinnati-Hamilton area.

II. Background

On June 19, 2000, EPA issued a final rule determining that the Cincinnati-Hamilton area had attained the one-hour ozone NAAQS, and redesignating both the Ohio and Kentucky portions of the area to attainment. 65 FR 37879. A petition for review resulted in the U.S. Court of Appeals for the Sixth Circuit vacating EPA's action in redesignating the area to attainment, and remanding to EPA for further proceedings consistent with the Court's opinion.

On February 12, 2002, the EPA published a proposed rule (67 FR 6459) and a direct final rule (67 FR 6411) to reinstate the attainment redesignation of the Kentucky portion of the Cincinnati-Hamilton moderate 1-hour ozone nonattainment area (Cincinnati-Hamilton area), which comprises the Ohio Counties of Hamilton, Butler, Clermont, and Warren and the Kentucky Counties of Boone, Campbell, and Kenton. Further background is set forth in the direct final rulemaking. 67 FR 6411. The EPA withdrew the direct final rule on April 8, 2002 (67 FR 16646), because adverse comments were received. This final rule addresses the comments.

III. Comment and Response

What Comments Did We (EPA?) Receive and What Are Our Responses?

EPA received two sets of adverse comments, one submitted by David Baron on behalf of the Sierra Club, Brian Scott, Pasko, and Ron Colwell, and the other submitted by Hank Gaddy on behalf of the Cumberland, KY Chapter of the Sierra Club. A summary of the adverse comments and EPA's responses to them are provided below.

Comment 1: A commentor contends that section 107(d)(3)(E) of the Clean Air Act (the ''Act'') unambiguously prohibits redesignation of any portion of a nonattainment area to attainment unless all of the requirements set forth in section 107(d)(3)(E) are met for the entire nonattainment area. Since the Court in *Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001) determined that there was a deficiency in the Ohio Reasonably Available Control Technology (RACT) rules that must be remedied before EPA could find that Ohio met the requirements for redesignation, then this also prevents EPA from reinstating the redesignation of the Kentucky portion which the Court had upheld in all respects.

Response 1: The *Wall* Court did not vacate EPA's approval of the maintenance plan for either portion of the area. Therefore the maintenance plan for the entire area is approved. The