the Department of Defense, other Government Agencies, and the public.

(5) Serve on boards, committees, and other groups concerned with matters pertaining to assigned functions and represent the Secretary of Defense on assigned functions outside the Department of Defense.

(6) Maintain liaison with congressional budget oversight committees on all DoD budgetary and fiscal matters and serve as focal point for joint Office of Management and Budget/Office of the Secretary of Defense budget and management reviews.

(7) Use existing facilities and services, whenever practicable, to achieve maximum efficiency and economy.

(b) Directors of Defense Agencies and DoD Field Activities shall coordinate with the Comptroller of the Department of Defense in the development of critical elements and performance standards for the Comptroller (or equivalent) in their respective organizations.

(c) The Comptroller of the Department of Defense shall provide input to the performance evaluation of Comptrollers (or equivalents) of Defense Agencies and DoD Field Activities.

(d) The Comptroller of the Department of Defense shall be consulted as to professional qualifications of Defense Agency and DoD Field Activity Comptrollers (or equivalents) before their selection to such positions.

(e) All DoD Components shall coordinate with the Comptroller of the Department of Defense on all matters related to the functions in § 352.4.

§ 352.6 Authorities.

(a) The Comptroller of the Department of Defense is hereby delegated authority to:

(1) Issue DoD Instructions, DoD publications, and one-time directive-type memoranda, consistent with DoD 5025.1–M that implement policies approved by the Secretary of Defense in the functions assigned to the Comptroller of the Department of Defense. Instructions to the Military Departmernts shall be issued through the Secretaries of those Departments, or their designees. Instructions to Unified and Specified Commands shall be issued through the Chairman, Joint Chiefs of Staff (CJCS)

(2) Approve or withhold authority to obligate and expend funds authorized and appropriated by Congress for the execution of DoD programs.

(3) Obtain reports, information, advice, and assistance, consistent with DoD Directive 7750.5 in carrying out assigned functions, as necessary.

(4) Communicate directly with the heads of the DoD Components. Communications to the Commanders of Unified and Specified Commands shall be coordinated through the CJCS.

(5) Establish arrangements for DoD participation in those non-defense governmental programs for which the Comptroller of the Department of Defense has been assigned primary staff cognizance.

(6) Communicate with other Government Agencies, representatives of the legislative branch, and members of the public, as appropriate, in carrying out assigned functions.

(b) Other authorities specifically delegated by the Secretary of Defense are contained in enclosure 1.

§ 352.7 Effective date.

This part is effective May 24, 1988.

Appendix—Delegations of Authority

Pursuant to the authority vested in the Secretary of Defense, the Comptroller of the Department of Defense is hereby delegated subject to the direction, authority, and control of the Secretary of Defense, authority to:

1. Approve requests to hold cash at personal risk for authorized purposes; including imprest funds, and to redelegate such authority as appropriate in the administration and control of DoD funds, consistent with provisions of the Treasury Financial Manual (TFM) and under the authority of Title 31, United States Code, section 3321 and 3342.

2. Approve DoD Component disbursing regulations developed to implement the TFM and to grant waivers when delegated by the Secretary of the Treasury to heads of Executive Departments and Agencies.

3. Approve the establishment of accounts for the individual operations financed by management funds and issue regulations for the administration of accounts thus established pursuant to the authority in Title 10, United States Code, section 2209.

4. Exercise the authority of the Secretary of Defense to establish reimbursement rates and prices for DoD goods and services.

5. Pursuant to the authority of sections 113 and 137 of Title 10, United States Code, make the determinations in order to effectuate transfers under transfer authorities enacted in DoD and military construction appropriation acts and make any reports or furnish notifications to the Congress or its committees in connection with the exercise of such transfers.

These authorities may be redelegated, as appropriate.

June 24, 1988.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Office, Department of Defense.

[FR Doc. 14617 Filed 6–28–88; 8:45 am]

BILLING CODE 3810–01–M

32 CFR Part 390a

[DoD Directive 5154.24]

Armed Forces Institute of Pathology (AFIP)

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This part is issued to incorporate changes to DoD Directive 5154.24, "Armed Forces Institute of Pathology (AFIP)," May 24, 1988, as requested by the Department of Defense Inspector General, the Assistant Secretary of Defense (Comptroller), and the Military Departments. This part delineates the functions and responsibilities of the AFIP.

EFFECTIVE DATE: May 24, 1988.

FOR FURTHER INFORMATION CONTACT: Capt. D. Uddin, Office of the Assistant Secretary of Defense (Health Affairs), Room 3D360, the Pentagon, Washington, DC 20301, telephone (202) 695–7117.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 390a

Organization and functions (Government agencies).

Accordingly Title 32, Chapter I, is amended to add Part 390a as follows:

PART 390a—ARMED FORCES INSTITUTE OF PATHOLOGY (AFIP)

Sec.

390a.1 Purpose.
390a.2 Definition.
390a.3 Organization.
390a.4 Administration, funding and staffing.
390a.5 Mission.
390a.6 Functions.
390a.7 Responsibilities.

Authority: 10 U.S.C. 133.

§ 390a.1 Purpose.

This part is issued to update policy, assign responsibilities, and prescribe guidance for the administration and management of the AFIP.

§ 390a.2 Definition.

Administrative Support. Planning, programming, budgeting, and execution system (PPBES) functions. These include funding; fiscal control; manpower administration; administrative support for space, facilities, and supplies; and other administrative provisions and services with related mobilization planning.

§ 390a.3 Organization.

(a) AFIP shall be a joint entity of the three Military Departments and subject to the authority, direction, and control of the Secretary of Defense in accordance with 10 U.S.C. 176, 177, and 2601.

(b) The Assistant Secretary of Defense (Health Affairs) (ASD(HA)) shall be responsible for AFIP policy direction in accordance with 10 U.S.C. 176, 177, and 2601, and 32 CFR Part 367.

(c) The Secretary of the Army shall serve as the Executive Agent for AFIP in accordance with 10 U.S.C. 176, 177, and 2601.

(d) The AFIP shall have a Board of Governors; a Director; two Deputy Directors; a Scientific Advisory Board (SAB); and a staff of professional, technical, administrative, and clerical personnel.

(e) The Board of Governors shall consist of:

(1) The ASD(HA), who shall serve as the Chairman of the Board of Governors.

(2) The Assistant Secretary for Health of the Department of Health and Human Services; the Surgeons General of the Army, the Navy, and the Air Force; and the Chief Medical Director of the Veterans' Administration. These members are expected to attend Board meetings personally, but may be represented by their Deputies if unable to attend.

(3) A former Director of AFIP, designed by the Secretary of Defense.

(f) The Board of Governors shall be supported by an Executive Secretary who shall assist in the preparation and follow-up of Board activities, and shall be selected by the Chairman from individuals assigned to the ASD(HA) staff.

(g) The Director and Deputy Directors of AFIP shall be military medical officers who are selected on the basis of high professional qualifications in the field of pathology and demonstrated medical administrative ability.

(1) The Director shall be appointed by the Secretary of Defense from nominations received from the Board of Governors. The Director shall be appointed on a rotating basis among the Army, the Navy, and the Air Force for a period of 4 years, but the highest criteria for selection shall be the qualifications of the individual nominee.

(2) A Deputy Director shall be appointed from each of the Military Departments that are not represented by the Director.

(h) The Director and Deputy Directors shall be aided by a SAB that shall meet at least semiannually to provide peer review and guidance for the AFIP scientific program.

(i) If deemed appropriate and feasible, a Scientific Director may be appointed to assist the Director with the content and direction of the scientific mission.

(j) Other professional, technical, and clerical staff consisting of medical department officers and other military personnel of the Army, Navy, and Air Force; and civilian personnel, including consultants and experts, shall be made available to the Director.

§ 390a.4 Administration, funding, and staffing.

(a) The Secretary of the Army, as the Executive Agent, shall be responsible for determining and providing, within the limits of resources available to the Department of the Army for such purposes, adequate administrative support for operating the AFIP. The Secretary of the Army may redelegate Executive Agent responsibilities within the command structure of the Department of the Army.

(b) The AFIP Director shall present a proposed budget to the AFIP Board of Governors for review and to the ASD(HA) for approval. The budget then shall be forwarded by the Director to the Executive Agent for inclusion in the Army's PPBES process. The Army shall ensure that the AFIP budget is identified as a line item in the Army budget.

(c) The Director shall present proposed staffing requirements to the ASD(HA), via the Board of Governors, for review and approval. The approved requirements shall be incorporated in a Joint Staffing Document by the Executive Agent with appropriate participation of the other Services.

(1) Each Military Department shall provide, within its resource capabilities, the military manpower and personnel assistance necessary to accomplish the AFIP mission. Military manpower shall be prorated among the Military Departments in accordance with the Joint Manpower Document administrated by the Executive Agent.

(2) DoD civilian personnel and associated administrative support shall be provided by the Army as Executive Agent.

(3) Military members assigned to AFIP shall be responsible to the Director with respect to their performance of duty.

(d) SAB members shall be nominated by the Director, reviewed by the Board of Governors, and approved by the ASD(HA).

(1) Appointments to the SAB shall be made by the Secretary of the Army, in accordance with 32 CFR Part 224, for a term not to exceed 2 years.

(2) No member of the AFIP regular duty staff may be appointed as a member of the SAB.

§ 390a.5 Mission.

The AFIP mission shall be to:

(a) Serve as a national and international resource supporting both the military and civilian sectors of pathology.

(b) Serve as the chief reviewing authority on the diagnosis of pathologic tissues for the Armed Services.

(c) Conduct consultation, education, and research programs in medical, dental, and veterinary pathology.

(d) Maintain a comprehensive collection of pathologic specimens for reference, education, and research.

§ 390a.6 Functions.

(a) The AFIP functions shall be to:

(1) Provide a comprehensive consultation service for the evaluation of pathologic tissues and specimens for the Department of Defense, other Federal Agencies, and civilian pathologists. The scope and extent of consultation services shall support the basic AFIP mission. These shall be determined by a Joint Service Regulation and an AFIP Instruction and shall be reviewed periodically by the Board of Governors and approved by ASD(HA).

(2) Provide instruction in pathology and closely related subjects to officers of the Armed Forces; to other Federal Medical Services; and, based on availability, to civil service physicians and other persons who are authorized to study or receive continuing education at AFIP.

(3) Conduct experimental, statistical, and morphological research and investigation in the field of pathology.

(i) Emphasis shall be placed on subjects at the forefront of the field of pathology. Research programs shall concentrate on areas of pathology of special interest to the Department of Defense and those that shall maintain the unique expertise of AFIP.

(ii) AFIP shall seek collaborative research efforts with other elements of the Federal Government and the academic community where they are in support of the basic AFIP mission.

(4) Operate the Armed Forces Medical Examiner System in accordance with DoD Directive 6010.16.[1]

(5) Contract with the American Registry of Pathology for cooperative effort between AFIP and the civilian medical profession according to guidelines in 10 U.S.C. 176 and under such conditions that support the AFIP mission and that have been agreed upon by the Board of Governors and approved by the ASD(HA).

(6) Operate the Armed Forces Medical Museum and maintain a national pathologic reference collection for

[1] Copies may be obtained, if needed, from the U.S. Naval Publication and Forms Center Attn: Code 1062, 5801 Tabor Avenue, Philadelphia, PA 19120.

utilization in instruction and research by qualified and authorized persons, and display selected relevant exhibits to the public.

(i) The Director is authorized to accept and process gifts and donations of items, materials, and medical artifacts of scientific, historical, or archival significance in accordance with 10 U.S.C. 2601.

(ii) The AFIP may collect medical materials, specimens, photographs, case records, and related data from the military and other sources in photographical areas worldwide to maintain the reference collection for teaching and research.

(iii) Materials from the reference collection may be prepared or duplicated and made available to museums, medical schools, scientific institutions, and qualified individuals worldwide for medical education and research. An AFIP Instruction, reviewed by the Board of Governors and approved by the ASD(HA), shall delineate the guidelines under which reference materials may be made available within the Department of Defense, to other Federal Agencies, to non-Federal institutions, and to individuals worldwide in accordance with DoD Directive 2040.2 [2] and 4000.19.[3]

(7) Maintain a Medical Illustration Service for the collecting, preparing, duplicating, printing, publishing, exhibiting, referencing, and filing of medical illustrative material of medical importance, except original motion picture footage. Primarily for the support of programs of AFIP, this service may be made available to the medical services of the Armed Forces, other Federal Agencies, and qualified individuals in accordance with current AFIP procedures and in accordance with DoD Directive 4000.19.

(8) The Department of Legal Medicine shall provide a consultation and monitoring service to assist in the resolution of medical-legal cases, civil and criminal, for the Department of Defense and, when applicable, for other Federal Agencies. The following guidance is provided:

(i) The detailed responsibilities and functions of the Department of Legal Medicine shall be set forth in an AFIP Instruction that shall be coordinated with the Judge Advocates General, reviewed by the Board of Governors, and approved by the ASD(HA).

(ii) The Department of Legal Medicine shall maintain the central malpractice claim files for the Department of Defense and the Armed Forces. Armed Forces claims officers shall provide, at the earliest possible time, one legible copy of each medical malpractice claim and related records to the AFIP, and will include a cover letter stating that either consultation is requested or that the file is forwarded for retention only.

(iii) Personnel assigned to this department shall be subject to regulations governing off duty employment and standards of conduct for both legal and medical personnel, as set forth in Army regulations.

(iv) The Judge Advocate General of the Army shall provide technical supervision and assistance on matters relating to legal instruction and information.

(9) Administer the drug testing quality control program and provide consultative services to the Department of Defense for the military drug testing program.

(10) Provide additional administrative or technical assistance as directed by the ASD(HA).

§ 390a.7 Responsibilities.

(a) The *AFIP Board of Governors* shall review and recommend action on policy, program, personnel- and budget-related issues for AFIP and shall provide periodic oversight of program and budget execution.

(b) The *Assistant Secretary of Defense (Health Affairs)* [ASD(HA)] shall be the approving authority for AFIP policy issues. This shall include approval of the following:

(1) Civilian contracts, AFIP Instructions, and Joint Service Regulations that govern AFIP's relationship with the Services and the civilian medical community.

(2) Senior personnel appointments, other than the Director, who shall be appointed by the Secretary of Defense.

(3) Proposed AFIP budget.

(4) Substantial changes in the mission or functions of the AFIP.

(c) The *Secretary of the Army, as the Executive Agent,* shall be responsible for the administration of budget, personnel, facilities, and other resources required to support the mission and functions of AFIP.

(d) The *Surgeon General of the Army, or the Deputy Surgeon General,* shall serve as the reporting senior for the Director of AFIP for performance evaluation.

June 24, 1988.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 88-14616 Filed 6-28-88; 8:45 am]

BILLING CODE 3810-01-M

[2] See footnote 1 to § 390a.6(a)(4).

[3] See footnote 1 to § 390a.5(a)(4).

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 150

[Docket No. 71038-8108]

Requests for Presidential Proclamations Under the Semiconductor Chip Protection Act of 1984

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent and Trademark Office (PTO) is adding a new Subchapter C, Part 150 to its rules to implement the Presidential proclamation provisions of the Semiconductor Chip Protection Act of 1984, 17 U.S.C. 902(a)(2). The rules establish procedures for the evaluation of requests by foreign governments for the issuance of Presidential proclamations granting protection in the United States to mask works of foreign origin. The rules also permit the Commissioner of Patents and Trademarks independently to initiate an evaluation. The effect of the rules will be to establish a regime of protection for foreign mask works in the United States, provided mask works of U.S. origin are adequately protected in the country requesting a Presidential proclamation.

EFFECTIVE DATE: August 1, 1988.

FOR FURTHER INFORMATION CONTACT: Michael K. Kirk, Assistant Commissioner for External Affairs, by telephone at (703) 557-3065, or by mail marked to his attention and addressed to Commissioner of Patents and Trademarks, Box 4, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: The Semiconductor Chip Protection Act of 1984 (SCPA) established a new form of intellectual property protection for mask works that are fixed in semiconductor chips. Mask works are defined as a "series of related images, however fixed or encoded," that represent the three-dimensional pattern in the layers of a semiconductor chip. Thus, the subject matter of protection under the SCPA are the layout designs of semiconductor chips, known in some countries as "integrated circuit layout designs" or as "semiconductor topographies." The SCPA provides a ten-year term of protection for original mask works measured from their date of registration or first commercial exploitation anywhere in the world. To maintain protection, mask works must be registered in the United States Copyright

Office within two years of first commercial exploitation.

Protection for foreign mask works may be granted under both section 902 and section 914 of the SCPA. Section 902 sets out three different ways that foreign mask works may become eligible for protection in the United States. First, on the date the work is registered or is first commercially exploited anywhere in the world, the mask work is protectible if its owner is a national, domiciliary or sovereign authority of a foreign nation that is a party to a treaty that provides protection of mask works and to which the United States is also a party, or if a stateless person, wherever domiciled. Second, foreign mask works may be protected when they are first commercially exploited in the United States. The third way, set forth in section 902(a)(2), is where the foreign mask work comes within the scope of a Presidential proclamation. The President may issue a proclamation upon finding that a foreign nation extends to mask works of owners who are U.S. nationals or domiciliaries, protection (1) on substantially the same basis as that on which the foreign nation extends protection to mask works of its own nationals and domiciliaries and mask works first commercially exploited in that nation, or (2) on substantially the same basis as provided in the SCPA. Pursuant to Executive Order 12504, 50 FR 4849 (February 4, 1985), requests for issuance of Presidential proclamations are to be presented to the President by the Secretary of Commerce.

Section 914 was included in the SCPA as a transitional provision, intended by Congress to encourage other countries to pass laws extending protection to this new form of intellectual property. Once laws were in place, it was reasoned, permanent protection for foreign mask works could be conferred under section 902 or through a multilateral treaty that extended coverage to mask works. Section 914 gives the Secretary of Commerce authority to issue orders extending interim protection to foreign mask work owners upon the satisfaction of certain conditions. First, the Secretary must find that the foreign nation is making good faith efforts and reasonable progress toward entering into a treaty with the United States, or toward enacting legislation that will protect U.S. mask works on the same basis as domestic mask works, or at a level similar to that provided under the SCPA. Second, the Secretary must determine that nationals, domiciliaries and sovereign authorities of the foreign nation are not engaged in the misappropriation, unauthorized distribution, or unauthorized commercial exploitation of mask works. Finally, the Secretary must determine that issuance of an interim order would promote the purposes of the SCPA and international comity with respect to the protection of mask works.

By Amendment 1 to Department Organization Order 10–14, issued December 3, 1984, the Secretary of Commerce delegated to the Assistant Secretary and Commissioner of Patents and Trademarks the authority under section 914 to make pertinent findings and to issue orders for the interim protection of foreign mask works. Amendment 2 to Department Organization Order 10–14, issued September 28, 1987, expanded the earlier delegation to include responsibility for prescribing regulations for the presentation to the President of requests for issuance of proclamations under section 902.

The Commissioner has issued orders granting interim protection under section 914 for mask works produced in Australia, Belgium, Canada, Denmark, Finland, France, the Federal Republic of Germany, Greece, Ireland, Italy, Japan, Luxembourg, The Netherlands, Portugal, Spain, Sweden, Switzerland, and the United Kingdom. All of the interim protection orders were recently extended until May 31, 1989. *See Extension of Previously-Granted Interim Orders Under the Semiconductor Chip Protection Act of 1984*, 53 FR 16308 (May 6, 1988).

This proceeding was initiated by a Notice of Proposed Rulemaking published at 53 FR 5588–5590 (February 25, 1988). The notice set forth proposed regulations for the submission and evaluation of requests that the Secretary of Commerce recommend the issuance or revocation of a Presidential proclamation granting U.S. protection to foreign mask works under section 902(a)(2) of the SCPA. Comments on the proposed rules were received from the Commission of the European Communities and the U.S. Semiconductor Industry Association.

Discussion of Specific Rules

Section 150.1 of the new rules sets forth relevant definitions. Section 150.2 specifies the conditions under which an evaluation of recommending the issuance, revision, suspension or revocation of a section 902 proclamation will be initiated by the Commissioner. Section 150.2(a) provides that the Commissioner must initiate an evaluation of the propriety of recommending the issuance of a section 902 proclamation upon receipt of a request from a foreign government. Section 150.2(b) gives the Secretary the discretion to initiate independently an evaluation concerning issuance, revision, suspension or revocation of a proclamation, or as directed by the Secretary of Commerce.

Section 150.3(a) states that requests for the issuance of a section 902 Presidential proclamation shall be made by "foreign governments." The definition of "foreign government" in section 150.1 of the rules makes clear that international intergovernmental organizations may request Presidential proclamation on behalf of their member states.

Section 150.3(b) lists the documentation that must accompany requests for issuance of a proclamation. The laws, legal rulings, regulations, and administrative orders submitted must be in unedited, full-text form. Where possible, the materials submitted should be reproduced from the original document, *e.g.*, from court reports or statutory instruments. Abstracts, summaries and commentaries are not acceptable. If the documents are not in English, a certified English translation must accompany them.

Section 150.4 sets out the procedure the Commissioner will follow after a request for issuance of a proclamation has been submitted, or following a decision independently to initiate an evaluation. If a foreign government requests a section 902 proclamation before a section 914 proceeding has taken place, under § 150.4(a) the Commissioner may initiate such a proceeding to compile a record of necessary information and, where appropriate, to provide interim protection in the United States while the section 902 request is pending. Section 150.4(b) provides that the information obtained during a section 914 proceeding, if one has been held, will be considered by the Commissioner in determining whether to recommend the issuance of a Presidential proclamation.

Section 150.4(c) provides that requests for Presidential proclamations, and notices of the Commissioner's determination independently to initiate section 902 evaluations, will be published in the **Federal Register**. Written comments will be requested. Section 150.4(d) requires the Commissioner to notify the Register of Copyrights and the Committees on the Judiciary of the Senate and the House of Representatives of the initiation of an evaluation. Under § 150.4(e), a hearing may be scheduled if the written comments raise issues that cannot be resolved through informal contacts. Section 150.4(f) provides that the record

to be considered by the Commissioner in determining whether to recommend a presidential proclamation will be the request from a foreign government, if any, written comments received, the record of any section 914 proceedings, and the information obtained in a hearing, if one is held.

Section 150.4(g) and (h) provide that the Commissioner will forward the draft recommendation to the Secretary, who will then forward a recommendation regarding issuance of a proclamation to the President. Section 150.5(a) makes clear that the recommendation for issuance of a proclamation may include terms and conditions regarding the duration of the proclamation. Section 150.5(b) provides that interested parties may request the revision, suspension or revocation of Presidential proclamations.

Comments on the Proposed Rules

Comments on the proposed rules were submitted by the Commission of the European Communities and the U.S. Semiconductor Industry Association (SIA). The Commission of the European Communities noted that any request for a proclamation in favor of mask works produced in the Member States will be made by the Commission. The Commission requested a clarification that the term "foreign governments" as used in § 150.3(a) includes international intergovernmental organizations which have been empowered by their member states to request Presidential proclamations granting U.S. protection to mask works produced in such states.

The PTO adopts the Commission's suggestion. The rules are not intended to preclude foreign governments from having requests for Presidential proclamations presented on their behalf by an international or regional intergovernmental organization. Accordingly, a definition of "foreign government" is added as § 150.1(b) of the rules, making clear that international intergovernmental organizations may request Presidential proclamations on behalf of their member states.

In its comments, the SIA requested § 150.4(c) be amended to require that the Commissioner hold a public hearing when requested by any interested party after an evaluation has begun. As proposed, § 150.4(e)(2)(ii) gives the Commissioner discretion to hold a hearing to gather additional information if material issues raised in written comments cannot be resolved less formally. SIA also requested that § 150.4(f) be amended to include information obtained in public hearings in the list of materials to be evaluated by the Commissioner. SIA suggested that § 150.4(c) specify a time period of thirty (30) days after publication of a request for comments in the **Federal Register** during which written comments and requests for a hearing may be submitted.

The PTO does not agree that the Commissioner should be required to hold a hearing as part of every section 902 evaluation whenever requested. Section 150.4(b) provides that information obtained during section 914 proceedings will be used in evaluating requests for Presidential proclamations. Moreover, under § 150.4(a) the Commissioner may institute section 914 proceedings if an interim order has not been issued in favor of mask works from such a requesting nation. Given the thoroughness with which section 914 proceedings are generally conducted, the Commissioner is expected to have available a substantial record concerning the degree of protection for U.S. mask works in the subject country. A separate hearing might only serve to cause delay in such cases.

Moreover, effective public participation in the section 902 evaluation process is not dependent on whether the Commissioner holds a hearing. The rules proceed from the assumption that any material issues relating to protection of U.S. mask works in a requesting foreign country can be raised in written comments, and that these issues can be resolved flexibly through informal *inter partes* contracts. Where issues cannot be resolved through such informal contracts, § 150.4(e)(ii) gives the Commissioner discretion to hold a hearing to obtain additional views and to assist in resolving the issues. It is not evident that a mandatory hearing upon request of interested parties would provide an opportunity for exchange of views or information that is not otherwise available under § 150.4(e).

The PTO agrees that, if the Commissioner elects to hold a hearing, the information obtained should be included in the record. Accordingly, § 150.4(f) is amended to make this clarification. It is also proper that the rules specify a time period for the submission of comments following publication in the **Federal Register** of the request for a proclamation or the Commission's determination to initiate independently a section 902 evaluation. Thus, to ensure that all interested parties have sufficient time to investigate and prepare complete written comments, § 150.4(c) is amended to specify that comments must be submitted within sixty (60) days of **Federal Register** publication.

Discussion of Principal Changes

A new § 150.1(b) has been added to the rules as proposed to clarify that international or regional intergovernmental organizations may request Presidential proclamations on behalf of their member states, provided the member states have empowered the organization to make such requests. Proposed § 150.1 (c)–(g) have been redesignated as § 150.1 (d)–(h). The definition of "mask work" in § 150.1(d) (proposed § 150.1(c)) has been modified slightly to conform to the language in section 901(a)(2) of the SCPA. The definition of "Presidential proclamation" in § 150.1(e) (proposed § 150.1(d)) has been changed slightly by substituting the words "applying for" for the word "making" before the word "registrations." The purpose of this change is to conform the language of the rule to section 908 of the SCPA, which relates to mask work registration. The definition of "request" in § 150.1(f) (proposed § 150.1(e)) has been changed to indicate that the Commissioner is not required to treat requests for the revision, suspension or revocation of a Presidential proclamation in the same way as requests for issuance of such proclamations (*see* discussion § 150.5(b), *infra*).

Section 150.2(a) has been expanded to make clear that the Commissioner may initiate independently an evaluation of recommending the revision, suspension, or revocation of a Presidential proclamation, as well as an evaluation of recommending the issuance of a proclamation. This change reflects the amendment to section 902(a)(2) made by the Semiconductor Chip Protection Act Extension of 1987, which clarifies that the President has the authority to revise, suspend or revoke, as well as issue, proclamations extending protection to foreign mask works.

Section 150.3(b) has been changed to state that requests for issuance of a Presidential proclamation must be accompanied by "a copy" of laws, legal rulings, regulations or administrative orders, rather than "an official copy" of such materials, as was proposed. This change is made to avoid confusion arising from the fact that the meaning of "official copy" may vary from country to country. Section 150.3.(b)(5) has been redesignated as § 150.3(b)(6), and a new § 150.3(b)(5) has been added to specify that the copies submitted to the PTO must be in full text, unedited, and where possible, be reproduced from the original document.

Section 150.4(c) has also been changed. The proposed rule stated that

notices of requests by foreign governments for the issuance of Presidential proclamations will be published in the Federal Register. Language has been added to make clear that notices of the Commissioner's determination independently to initiate evaluations will also be published in the Federal Register. Section 150.4(c) has also been changed to provide that comments shall be submitted to the Commissioner within sixty (60) days of publication of the Federal Register notice. Section 150.4(f) has been modified to include information obtained in a public hearing held pursuant to § 150.4(e)(ii), if such a hearing is held, in the list of materials to be evaluated by the Commissioner.

Section 150.5(b) has been changed to reflect the amendment to section 902(a)(2) made by the Semiconductor Chip Protection Act Extension of 1987. The first sentence provides that any interested party may request the "revision, suspension or revocation" of a proclamation. The second sentence has been modified to provide that "requests for revision, suspension or revocation of a proclamation will be considered in substantially the same manner as requests for the issuance of a section 902 proclamation." The word "substantially" has been added to indicate that the Commissioner need not initiate a formal evaluation in every case where a request is made for the revision, suspension or revocation of a Presidential proclamation, in contrast to situations where a foreign government requests the issuance of such a proclamation. While good faith requests for the revision, suspension or revocation of a proclamation will be accorded fair procedural treatment, it is proper that the Commissioner have flexibility at the outset to consider such requests on a case-by-case basis as experience is gained under these rules. If necessary, the PTO may amend the rules at a later time to provide additional procedures for consideration of requests for revision, suspension or revocation of Presidential proclamations.

Stylistic changes have also been made in §§ 150.2(a), 150.3(b)(6) (proposed §§ 150.3(b)(5) and 150.5(a), but these changes are for purposes of clarity and are not substantive in nature.

Other Considerations

This rule does not have a significant impact on the quality of the human environment or the conservation of natural resources.

This rule is in conformity with the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, Executive Orders 12291 and 12612, and the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

The General Counsel of the Department of Commerce has certified to the Small Business Administration that the proposed rule will not have a significant adverse economic impact on a substantial number of small entities (Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*) The economic impact of a Presidential proclamation on small entities will be beneficial, since such proclamations may be issued only upon a finding that a foreign nation extends reciprocal protection to U.S. mask works.

The Patent and Trademark Office has determined that this rule is not a major rule under Executive Order 12291. The annual effect on the economy will be less than $100 million. There will be no major increase in costs or prices for consumers, individual industries, federal, state or local government agencies, or geographic regions. By extending protection to foreign mask work owners, the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets will be enhanced.

The Patent and Trademark Office has also determined that this notice has no federalism implications affecting the relationship between the national government and the states as outlined in Executive Order 12612.

The rule will not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3510 *et seq.*, since no record-keeping or reporting requirements within the coverage of the Act are place upon the public.

List of Subjects in 37 CFR Part 150

Administrative practice and procedure, Authority delegations, Semiconductor chips, Mask works.

For the reasons set out in the preamble, Chapter 1 of Title 37 CFR is amended by adding a new Subchapter C, Part 150, as follows:

SUBCHAPTER C—PROTECTION OF FOREIGN MASK WORKS

PART 150—REQUESTS FOR PRESIDENTIAL PROCLAMATIONS PURSUANT TO 17 U.S.C. 902(a)(2)

Sec.

150.1 Definitions.
150.2 Initiation of evaluation.
150.3 Submission of requests.
150.4 Evaluation.
150.5 Duration of proclamation.
150.6 Mailing address.

Authority: 35 U.S.C. 6; E.O. 12504, 50 FR 4849, 3 CFR, 1985 Comp., p. 335.

§ 150.1 Definitions.

(a) "Commissioner" means Assistant Secretary and Commissioner of Patents and Trademarks.

(b) "Foreign government" means the duly-constituted executive of a foreign nation, or an international or regional intergovernmental organization which has been empowered by its member states to request issuance of Presidential proclamations on their behalf under this part.

(c) "Interim order" means an order issued by the Secretary of Commerce under 17 U.S.C. 914.

(d) "Mask work" means a series of related images, however fixed or encoded—

(1) Having or representing the predetermined, three-dimensional pattern of metallic, insulating, or semiconductor material present or removed from the layers of a semiconductor chip product; and

(2) In which series the relation of the images to one another is that each image has the pattern of the surface of one form of the semiconductor chip product.

(e) "Presidential proclamation" means an action by the President extending to foreign nationals, domiciliaries and sovereign authorities the privilege of applying for registrations for mask works pursuant to 17 U.S.C. 902.

(f) "Request" means a request by a foreign government for the issuance of a Presidential proclamation.

(g) "Proceeding" means a proceeding to issue a interim order extending protection to foreign nationals, domiciliaries and sovereign authorities under 17 U.S.C. Chapter 9.

(h) "Secretary" means the Secretary of Commerce.

§ 150.2 Initiation of evaluation.

(a) The Commissioner independently or as directed by the Secretary, may initiate an evaluation of the propriety of recommending the issuance, revision, suspension or revocation of a section 902 proclamation.

(b) The Commissioner shall initiate an evaluation of the propriety of recommending the issuance of a section 902 proclamation upon receipt of a request from a foreign government.

§ 150.3 Submission of requests.

(a) Requests for the issuance of a

section 902 proclamation shall be submitted by foreign governments for review by the Commissioner.

(b) Requests for issuance of a proclamation shall include:

(1) A copy of the foreign law or legal rulings that provide protection for U.S. mask works which provide a basis for the request.

(2) A copy of any regulations or administrative orders implementing the protection.

(3) A copy of any laws, regulations or administrative orders establishing or regulating the registration (if any) of mask works.

(4) Any other relevant laws, regulations or administrative orders.

(5) All copies of laws, legal rulings, regulations or administrative orders submitted must be in unedited, full-text form, and if possible, must be reproduced from the original document.

(6) All material submitted must be in the original language, and if not in English, must be accompanied by a certified English translation.

§ 150.4 Evaluation.

(a) Upon submission of a request by a foreign government for the issuance of a section 902 proclamation, if an interim order under section 914 has not been issued, the Commissioner may initiate a section 914 proceeding if additional information is required.

(b) If an interim order under section 914 has been issued, the information obtained during the section 914 proceeding will be used in evaluating the request for a section 902 proclamation.

(c) After the Commissioner receives the request of a foreign government for a section 902 proclamation, or after a determination is made by the Commissioner to initiate independently an evaluation pursuant to § 150.2(a) of this part, a notice will be published in the **Federal Register** to request relevant and material comments on the adequacy and effectiveness of the protection afforded U.S. mask works under the system of law described in the notice. Comments should include detailed explanations of any alleged deficiencies in the foreign law or any alleged deficiencies in its implementation. If the alleged deficiencies include problems in administration such as registration, the respondent should include as specifically as possible full detailed explanations, including dates for and the nature of any alleged problems. Comments shall be submitted to the Commissioner within sixty (60) days of publication of the **Federal Register** notice.

(d) The Commissioner shall notify the Register of Copyrights and the Committees on the Judiciary of the Senate and the House of Representatives of the initiation of an evaluation under these regulations.

(e) If the written comments submitted by any party present relevant and material reasons why a proclamation should not issue, the Commissioner will:

(1) Contact the party raising the issue for verification and any needed additional information;

(2) Contact the requesting foreign government to determine if the issues raised by the party can be resolved; and,

(i) If the issues are resolved, continue with the evaluation; or,

(ii) If the issues cannot be resolved on this basis, hold a public hearing to gather additional information.

(f) The comments, the section 902 request, information obtained from a section 914 proceeding, if any, and information obtained in a hearing held pursuant to paragraph (e)(ii) of this section, if any, will be evaluated by the Commissioner.

(g) The Commissioner will forward the information to the Secretary, together with an evaluation and a draft recommendation.

(h) The Secretary will forward a recommendation regarding the issuance of a section 902 proclamation to the President.

§ 150.5 Duration of proclamation.

(a) The recommendation for the issuance of a proclamation may include terms and conditions regarding the duration of the proclamation.

(b) Requests for the revision, suspension or revocation of a proclamation may be submitted by any interested party. Requests for revision, suspension or revocation of a proclamation will be considered in substantially the same manner as requests for the issuance of a section 902 proclamation.

§ 150.6 Mailing address.

Requests and all correspondence submitted pursuant to these guidelines shall be addressed to: Commissioner of Patents and Trademarks, Box 4, Washington, DC 20231.

Donald J. Quigg,

Assistant Secretary and Commissioner of Patents and Trademarks.

Date: June 23, 1988.

[FR Doc. 88-14625 Filed 6-28-88; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 61

[FRL-3400-9]

Delegation of State Authority; Washington; Air Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule amendment.

SUMMARY: This notice amends the Code of Federal Regulations by changing the mailing address of the Puget Sound Air Pollution Control Agency.

EFFECTIVE DATE: June 6, 1988.

FOR FURTHER INFORMATION CONTACT: Laurie M. Kral, Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue, AT-082, Seattle, Washington 98101, Telephone: (206) 442-0180, FTS: 399-0180.

SUPPLEMENTARY INFORMATION:

List of Subjects

40 CFR Part 60

Intergovernmental relations, Air pollution control, Aluminum, Ammonium sulfate plants, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel sulfuric acid plants, Waste treatment and disposal, Zinc.

40 CFR Part 61

Intergovernmental relations, Air pollution control, Asbestos, Beryllium, Hazardous materials, Mercury, Vinyl chloride.

Date: June 6, 1988.

Robie G. Russell,

Regional Administrator.

Part 60 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 60—[AMENDED]

1. The authority citation for Part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, 7601.

Subpart A—General Provisions

2. Section 60.4 is amended by revising paragraph (b)(WW)(iii) to read as follows:

§ 60.4 Address.

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