Department approves the certification, it issues a CLN.

Individuals who wish to challenge the Department's decision to issue a CLN may file an administrative appeal with the Board, pursuant to 22 CFR part 7. 22 CFR 7.2(b) provides, in relevant part, that "[t]he merits of appeals or decisions of the Board shall not be subject to review by the Legal Adviser or any other Department official." 22 CFR 7.9 provides, in relevant part, that "decision(s) of the Board shall be final * * *"

Recently, a question arose concerning the proper interpretation of these provisions when the Department administratively vacated several CLNs in cases in which the Board had issued intervening decisions sustaining the Department's actions in issuing the CLNs. Although the Legal Adviser issued an opinion on 29 May 1991 sustaining the Department's authority to effect such administrative redeterminations, the Department considers that it would be advisable to avoid any possible confusion on this point by amending 22 CFR part 7.

This final rule amends 22 CFR 7.2(b) by adding the following sentence: "Nothing in these regulations, however, shall be deemed to preclude the Department from administratively vacating Certificates of Loss of Nationality on its own initiative at any time, notwithstanding an intervening decision by the Board sustaining the Department's original determination". The final rule makes a corresponding change to 22 CFR 7.9 by amending the third sentence thereof to read as follows: "The decision of the Board shall be final, subject to §§ 7.2(b) and 7.10"

The provisions of 5 U.S.C. 553 relative to notice of final rule and delayed effective date are not required in this rule because the changes herein relate solely to internal agency management matters. This rule is not considered to be a major rule for purposes of E.O. 12291 nor will it have a significant impact on a substantial number of small entities under the Regulatory Flexibility Act.

List of Subjects in 22 CFR Part 7

Administrative practice and procedure, citizenship and naturalization, organization and functions (Government agencies).

Accordingly, part 7 to title 22, Code of Federal Regulations, is amended as indicated below.

PART 7—[AMENDED]

1. Section 7.2, paragraph (b) is revised to read:

§ 7.2 Establishment of Board of Appellate Review; purpose.

* * * * *

(b) For administrative purposes, the Board shall be part of the Office of the Legal Adviser. The merits of appeals or decisions of the Board shall not be subject to review by the Legal Adviser or any other Department official, except that the Department may administratively vacate a Certificate of Loss of Nationality on its own initiative at any time, notwithstanding an intervening decision by the Board sustaining the Department's original determination.

2. Section 7.9 is revised to read:

§ 7.9 Decisions.

The Board shall decide the appeal on the basis of the record of the proceedings. The decision shall be by majority vote in writing and shall include findings of fact and conclusions of law on which it is based. The decision of the Board shall be final, subject to §§ 7.2(b) and 7.10. Copies of the Board's decision shall be forwarded promptly to the parties.

Dated: October 4, 1991.

Edwin D. Williamson,

Legal Adviser.

[FR Doc. 91-25581 Filed 10-25-91; 8:45 am]

BILLING CODE 4710-08-M

Bureau of Politico-Military Affairs

22 CFR Parts 120, 123, and 126

[Public Notice 1509]

Amendments to the International Traffic in Arms Regulations (ITAR)

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule, arrived at through coordination with industry and U.S. Government agencies (e.g., Department of Defense), and consultation with industry through the 30 day public review process, clarifies and amends the regulations implementing section 38 of the Arms Export Control Act, which governs the export of defense articles and defense services. Specifically, it makes explicit certain limits on the definition of technical data; expands an existing exemption from licensing requirements for shipments by or for U.S. Government agencies; and creates a new exemption for specialized packing cases for defense articles. This rule is intended to reduce the burden on munitions exporters: It clarifies when a license is needed to export technical data and eliminates the need for prior U.S. Government approval for certain transactions.

EFFECTIVE DATE: October 28, 1991.

FOR FURTHER INFORMATION CONTACT: Rose Biancaniello, Chief, Arms Licensing Division, Office of Defense Trade Controls, Department of State, (703-875-6644).

SUPPLEMENTARY INFORMATION: This rule amends the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120-130), which implements section 38 of the Arms Export Control Act (22 U.S.C. 2778). This amendment clarifies when a license is needed to export technical data and eliminates licensing requirements for certain exports of defense articles. It is one of a series of ITAR changes intended to eliminate requirements on munitions exporters that are no longer necessary.

First, this amendment revises the definition of technical data for purposes of the ITAR by making explicit that it does not include basic marketing information on function or purpose, or general system descriptions of defense articles.

Second, this amendment adds packing cases specially designed to carry defense articles to the list of those items covered by the U.S. Munitions List that are exempt from the licensing requirements of the ITAR.

Third, these changes relax the requirements that must be met before exporting defense articles for U.S. Government use abroad without an export license or a U.S. Bill of Lading.

Specifically, it removes the requirements that exporters certify that the urgency of the U.S. Government need is such that an appropriate export license or U.S. Government Bill of Lading could not be obtained in a timely manner. In addition, this amendment makes clear that the exporter certification required whenever this exemption is used must be submitted to the Office of Defense Trade Controls at the same time as the shipper's export declaration required under § 123.25(c).

This rule affects collection of information subject to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and will serve to reduce the burden on exporters in that respect. The relevant information collection is to be reviewed by the Office of Management and Budget under control No. 1405-0013.

Accordingly, for the reasons set forth in the preamble, title 22 chapter I, subchapter M (consisting of parts 120 through 130) of the Code of Federal Regulations, is amended as set forth below:

PART 120—PURPOSE, BACKGROUND AND DEFINITIONS

1. The authority citation for part 120 continues to read as follows:

Authority: Sec. 38, Arms Export Control Act, 90 Stat. 744 (22 U.S.C. 2778); E.O. 11958, 42 FR 4311; 22 U.S.C. 2658.

2. In § 120.21, paragraph (c) is revised to read as follows:

§ 120.21 Technical data.

* * * * *

(c) Information, in any form, which is directly related to the design, engineering, development, production, processing, manufacture, use, operation, overhaul, repair, maintenance, modification, or reconstruction of defense articles. This includes, for example, information in the form of blueprints, drawings, photographs, plans, instructions, computer software and documentation. This also includes information which advances the state of the art of articles on the U.S. Munitions List. This definition does not include information concerning general scientific, mathematical or engineering principles commonly taught in academia. It also does not include basic marketing information on function or purpose or general system descriptions of defense articles.

PART 123—LICENSES FOR THE EXPORT OF DEFENSE ARTICLES

3. The authority citation for part 123 continues to read as follows:

Authority: Sec. 38, Arms Export Control Act, 90 Stat. 744 (22 U.S.C. 2778); E.O. 11958, 42 FR 4311, 22 U.S.C. 2658.

4. In § 123.16, paragraph (b) is revised to read as follows:

§ 123.16 Obsolete firearms; models or mock-ups; and packing cases.

* * * * *

(b) District directors of customs may permit the export without a license of the following two categories of items:

(1) Packing cases specially designed to carry defense articles; and

(2) Unclassified models or mock-ups of defense articles, provided that such models or mock-ups are nonoperable and do not reveal any technical data in excess of that which is exempted from the licensing requirements of § 125.4(b). U.S. persons who avail themselves of this exemption related to models and mock-ups must provide a written certification to the district director of customs that these conditions are met. This exemption does not imply that the Office of Defense Trade Controls will approve the export of any defense articles for which models or mock-ups have been exported pursuant to this exemption.

PART 126—GENERAL POLICIES AND PROVISIONS

5. The authority citation for part 126 is revised to read as follows:

Authority: Sec. 38, Sec. 42, Arms Export Control Act, 90 Stat. 744 (22 U.S.C. 2778); E.O. 11958, 42 FR 4311; 22 U.S.C. 2658.

6. In § 126.4, paragraph (c) is revised to read as follows:

§ 126.4 Shipments by or for United States Government agencies.

* * * * *

(c) A license is not required for the temporary import, or temporary or permanent export, of any classified or unclassified defense articles or technical data for end-use by a U.S. Government Agency in a foreign country under the following circumstances:

(1) The export or temporary import is pursuant to a contract with, or written direction by, an agency of the U.S. Government; and

(2) The end-user in the foreign country is a U.S. Government agency or facility, and the defense articles or technical data will not be transferred to any foreign person; and

(3) A Shipper's Export Declaration (SED), required under § 123.25(c) of this subchapter, and a written statement by the contracting U.S. Government Agency certifying that these requirements have been met must be presented at the time of export to the appropriate district director of customs or Department of Defense transmittal authority. A copy of the SED and the written certification statement shall be provided to the Office of Defense Trade Controls immediately following the export.

Dated: September 28, 1991.

Reginald T. Bartholomew,

Under Secretary of State for International Security Affairs.

[FR Doc. 91-25817 Filed 10-25-91; 8:45 am]

BILLING CODE 4710-25-M

Foreign Service Grievance Board

22 CFR Parts 901, 902, 903, 904, 905, 906, 907, 908, 910, and 911

[Public Notice 1500]

Foreign Service Grievance Board Regulations

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This final rule will revise the regulations of the Foreign Service Grievance Board to accommodate new legislation. The proposed rule was published under 56 FR 22377, May 15, 1991. The Foreign Service Grievance Board revises its regulations to conform to the provisions concerning grievances as described in chapter 11 of the Foreign Service Act of 1980 (Pub. L. 96-465; 94 Stat. 2071) of October 17, 1980, as amended, and to implement agency regulations adopted by the foreign affairs agencies and the exclusive employee representatives pursuant to that Act. Parts 904, 905, 908, and 910 have been revised to address: Agency actions against certain grievants; payment of attorney fees; agency responses to Board recommendations; and Board procedures in specific grievance cases.

EFFECTIVE DATE: October 28, 1991.

FOR FURTHER INFORMATION CONTACT: Judith A. Schmidt, Executive Secretary, Foreign Service Grievance Board, (703) 235-3173.

SUPPLEMENTARY INFORMATION:

List of Subjects in 22 CFR Parts 901-908, 910, and 911

Administrative practice and procedure, Foreign Service. For the reasons set out in the preamble, 22 CFR parts 901-908, 910, and 911 are amended as set forth below:

PART 901—GENERAL

1. The authority citation for part 901 is revised to read as follows:

Authority: Secs. 610, 1101, 1102, 1105, and 1106 of the Foreign Service Act of 1980, Pub. L. 96-465 (22 U.S.C. 4131, 4132, 4135, and 4136), as amended.

2. Section 901.10 is revised to read as follows:

§ 901.10 Act.

Act means the Foreign Service Act of 1980 (Pub. L. 96-465, October 17, 1980), as amended.

§ 901.18 [Amended]

3. In § 901.18, paragraph (c)(4), the word "prohibiting" is changed to read "prohibited".

§ 901.20 [Amended]

4. In § 901.20, paragraph (c) is amended by removing the phrase "achieved Party status under 903.5(a)" and adding in its place "achieved Party status under 903.4".

PART 902—ORGANIZATION

5. The authority citation for part 902 is revised to read as follows:

Authority: Secs. 1105 and 1106 of the Foreign Service Act of 1980, Pub. L. 96-465 (22 U.S.C. 4135 and 4136), as amended.

§ 902.2 [Amended]

6. In § 902.2, paragraph (c) is amended by removing the reference to "§ 906.3" and adding in its place "§ 906.4".

PART 903—INITIATION AND DOCUMENTATION OF CASES

7. The authority citation for part 903 is revised to read as follows:

Authority: Secs. 610, 1104, and 1106–1109 of the Foreign Service Act of 1980, Pub. L. 96–465 (22 U.S.C. 4010, 4134, and 4136–4139), as amended.

PART 904—JURISDICTION AND PRELIMINARY DETERMINATIONS

8. The part heading for part 904 is revised to read as set forth above.

9. The authority citation for part 904 is revised to read as follows:

Authority: Secs. 1101, 1104, 1108, and 1109 of the Foreign Service Act of 1980, Pub. L. 96–465 (22 U.S.C. 4131, 4134, 4138, and 4139), as amended.

10. In § 904.2, paragraphs (b) and (d) are revised to read as follows:

§ 904.2 Preliminary determinations.

* * * * *

(b) The Board may also make a preliminary determination on any question raised by a Party concerning the timeliness of a grievance, the election of other remedies under § 904.3, or any other issue whose resolution might avoid the necessity of further proceedings.

* * * * *

(d) Where an issue presented for preliminary determination under this section is contested by a party or would result in the termination of a case, a panel of three members of the Board shall decide the issue.

11. Section 904.4 is added to read as follows:

§ 904.4 Suspension of agency actions.

(a) If the Board determines that the agency is considering involuntary separation of the Grievant, disciplinary action against the Grievant, or recovery from the Grievant of alleged overpayment of salary, expenses, or allowances, which is related to a grievance pending before the Board, and that such action should be suspended, the agency shall suspend such action until the Board has ruled on the grievance. Notwithstanding such suspension of action, the head of the agency concerned or a chief of mission or principal officer may exclude the Grievant from official premises or from the performance of specified functions when such exclusion is determined in writing to be essential to the functioning of the post or office to which the Grievant is assigned.

(b) Notwithstanding paragraph (a) of this section, the Board shall not determine that action to suspend without pay a Grievant shall be suspended if the head of an agency or his designee has determined that there is reasonable cause to believe that a Grievant has committed a job-related crime for which a sentence of imprisonment may be imposed and has taken action to suspend the Grievant without pay pending a final resolution of the underlying matter. For this purpose, reasonable cause to believe that a member has committed a crime for which a sentence of imprisonment may be imposed shall be defined as a member of the Service having been convicted of, and sentence of imprisonment having been imposed for a job-related crime.

(c) The Board shall expedite its decisions on requested suspensions of proposed Agency actions. The Board may permit or require argument with respect to such requests by the Parties and Exclusive Representative, if any.

PART 905—BURDEN OF PROOF

12. The authority citation for part 905 is revised to read as follows:

Authority: Secs. 610 and 1106 of the Foreign Service Act of 1980, Pub. L. 96–465 (22 U.S.C. 4010 and 4136), as amended.

13. Section 905.2 is revised to read as follows:

§ 905.2 Disciplinary grievances.

In grievances over disciplinary actions, the agency has the burden of establishing by a preponderance of the evidence that the disciplinary action was justified, provided, however, that in a grievance concerning suspension without pay pursuant to section 610(a)(3) of the Act, the Board's determination of the grievance shall be limited to:

(a) Whether the required procedures have been followed; and

(b) Whether there exists reasonable cause to believe a crime has been committed for which a sentence of imprisonment may be imposed and there is a nexus between the conduct and the efficiency of the Service.

For this purpose, reasonable cause to believe that a member has committed a crime for which a sentence of imprisonment may be imposed shall be defined as a member of the Service having been convicted of, and sentence of imprisonment having been imposed for, a job-related crime.

PART 906—HEARINGS

14. The authority citation for part 906 is revised to read as follows:

Authority: Secs. 610 and 1106 of the Foreign Service Act of 1980, Pub. L. 96–465 (22 U.S.C. 4010 and 4136), as amended.

PART 907—PROCEDURE WHEN HEARING IS NOT HELD

15. The authority citation for part 907 is revised to read as follows:

Authority: Sec. 1106 of the Foreign Service Act of 1980, Pub. L. 96–465 (22 U.S.C. 4136), as amended.

PART 908—REMEDIES

16. The authority citation for part 908 is revised to read as follows:

Authority: Secs. 1106 and 1107 of the Foreign Service Act of 1980, Pub. L. 96–465 (22 U.S.C. 610, 4010, 4136, and 4137).

§ 908.1 [Amended]

17. In § 908.1, paragraph (e) is removed and paragraph (f) is redesignated as paragraph (e).

§ 908.2 [Redesignated as § 908.3]

18. Section 908.2 is redesignated as § 908.3.

19. Section 908.2 is added to read as follows:

§ 908.2 Attorney fees.

(a) If the Board finds that a grievance is meritorious or that an Agency has not established the cause for separation of a charged employee in a hearing before the Board pursuant to section 610 of the Act, the Board shall have the authority to direct the Agency to pay reasonable attorney fees to the same extent and in the same manner as such fees may be required by the Merit Systems Protection Board under 5 U.S.C. 7701(g).

(b) Requests for attorney fees, accompanied by supporting documentation, must be filed with the Board within thirty (30) days of the date of the Board's decision.

20. In newly redesignated § 908.3, paragraph (a) is revised, and paragraphs (c), (d), (e), and (f) are added to read as follows:

§ 908.3 Board recommendations.

(a) If the Board finds that the grievance is meritorious and that remedial action should be taken that relates directly to promotion, tenure, or assignment of the Grievant or to other remedial action not otherwise provided for in this section, or if the Board finds that the evidence in a grievance proceeding warrants disciplinary action against any employee of an Agency, it shall make an appropriate recommendation to the head of the concerned Agency.

* * * * *

(c) A recommendation under this section shall, for the purposes of section 1110 of the Act, be considered a final action upon the expiration of a 30-day period referred to in paragraph (b) of this section, except to the extent that it is rejected by the head of the Agency by an appropriate written decision.

(d)(1) If the head of the Agency makes a written decision under paragraph (b) of this section rejecting a recommendation in whole or in part on the basis of a determination that implementing such recommendation would be contrary to law, the head of the Agency shall, within the 30-day period referred to in paragraph (b) of this section:

(i) Submit a copy of such decision to the Board; and

(ii) Request that the Board reconsider its recommendation or, if less than the entirety is rejected, that the Board reconsider the portion rejected.

(2) Within 30 days after receiving such a request, the Board shall, after reviewing the head of the Agency's decision, make a recommendation to the head of the agency confirming, modifying, or vacating its original recommendation or, if less than the entirety was rejected, the portion involved. Reconsideration shall be limited to the question of whether implementing the Board's original recommendation, either in whole or in part, as applicable, would be contrary to law.

(e) A Board recommendation made under the preceding paragraph (d)(2) of this section shall be considered a final action for the purpose of section 1110 of the Act, and shall be implemented by the head of the Agency.

(f) The provisions of paragraphs (c), (d), and (e) of this section shall not apply with respect to any grievance in which the Board has issued a final decision pursuant to section 1107 of the Act before December 22, 1987.

PART 910—MISCELLANEOUS

21. The authority citation for part 910 is revised to read as follows:

Authority: Secs. 1106, 1107, 1110, and 2401 of the Foreign Service Act of 1980, Pub. L. 96–465 (22 U.S.C. 4136, 4137, 4140, and 4172).

§ 910.1 [Removed]

§§ 910.2 through 910.7 [Redesignated as §§ 910.1 through 910.6]

22. Section 910.1 is removed and §§ 910.2 through 910.7 are redesignated as §§ 910.1 through 910.6.

23. In newly redesignated § 910.4, the section heading and paragraph (b) are revised to read as follows:

§ 910.4 Confidentiality; Record of grievances awarded.

* * * * *

(b) The records of the Board shall be maintained by the Board under appropriate safeguards to preserve confidentiality and shall be separate from all records of the Agencies; provided, however, that records of all grievances awarded in favor of the Grievant in which the grievance concerns gross misconduct by a supervisor shall be separately maintained by the Board and the procedures regarding confidentiality and disclosure of such records shall be as provided in section 1107(e) of the Foreign Service Act of 1980, as amended; and provided further, that the Board shall not make a finding of gross misconduct without first providing the supervisor whose conduct is at issue notice and an opportunity to respond.

PART 911—IMPLEMENTATION DISPUTES

24. The authority citation for part 911 is revised to read as follows:

Authority: Sec. 1014 of the Foreign Service Act of 1980, Pub. L. 96–465 (22 U.S.C. 4114), as amended.

Dated: September 26, 1991.

James Oldham,

Chairman.

[FR Doc. 91–25861 Filed 10–25–91; 8:45 am]

BILLING CODE 4710-10-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. 900664–1232]

Time Period for Objection to Publication

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent and Trademark Office (PTO) is amending its rules to change the period within which applicants or parties may object to the publication of a decision of the Board of Patent Appeals and Interferences (Board), or any decision of the Commissioner on petition, not otherwise open to public inspection, from two months to one month. The change will expedite publication of decisions involving issues of important precedential value to patent practitioners.

EFFECTIVE DATE: November 27, 1991.

FOR FURTHER INFORMATION CONTACT: Lee E. Barrett by telephone at (703) 557–4035 or by mail marked to his attention and addressed to Box 8, Commissioner of Patents and Trademarks, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: As presently written, 37 CFR 1.14(d) allows an applicant or a party to an interference two months to object to the publication of a decision of the Board or the Commissioner. When originally proposed, § 1.14(d) contained a one-month time period for objection. 41 FR 43729 (October 4, 1976). A two-month period was adopted originally in response to several comments. 42 FR 5588 (January 28, 1977). The two-month period has been found in practice to unduly delay publication of decisions involving significant issues of law, rule interpretation or PTO practice which the Commissioner has determined to be of important and immediate interest to patent practitioners. The PTO is amending § 1.14(d) to change the time period for objection from "two months" to "one month."

Amendments to 37 CFR 1.14(d) were proposed in a rulemaking notice published in the **Federal Register** at 55 FR 30253–30254 (July 25, 1990). The proposed amendment originally proposed changing "two months" to "a time specified by the Commissioner" and noted that the response period would normally be set at one month.

Interested parties were requested to submit written comments on or before August 24, 1990. Written comments were submitted by three individuals. One telephone comment was received. The comments received and replies thereto are listed below.

Comment. One comment suggested that the proposed rule change be amended to include a minimum time period of at least one month.

Reply. This suggested modification to the proposed rule has, in effect, been incorporated.

Comment. Two comments noted the difficulty and delay involved in dealing with foreign clients. One comment suggested that the two-month period of the rule be left as is. Another suggested that there be a liberal policy for extension of time for foreign clients.

Reply. The suggestion to leave the two-month period of the rule as is has not been adopted in view of the need for a shorter time period. Decisions or requests for further time to respond will be handled on a case-by-case basis.

Comment. One comment noted that correspondence from the PTO sometimes does not reach its destination and suggested that decisions concerning pending applications should not be published without the PTO receiving written permission.

Reply. This comment does not respond to the proposed rule change, which modifies only the time period for objection.

Other Considerations

The rule change will not have a significant impact on the quality of the human environment or the conservation of energy resources.

The rule change is in conformity with the requirements of the Regulatory Flexibility Act (Pub. L. 96-354), 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 rule change will not have a significant adverse economic impact on a substantial number of small entities (Regulatory Flexibility Act, Public Law 96-354) because no increase in fees or paperwork should result from this rule change.

The Patent and Trademark Office has determined that this rule change 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. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The PTO 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 change will not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, since no recordkeeping or reporting requirements within the coverage of the Act are placed upon the public.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Freedom of information, Inventions and patents, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and pursuant to the authority granted to the Commissioner of Patents and Trademarks by 35 U.S.C. 6, part 1 of title 37, chapter I, subchapter A of the Code of Federal Regulations is amended as set forth below.

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR part 1 continues to read as follows:

Authority: 35 U.S.C. 6 unless otherwise noted.

2. Section 1.14(d) is revised to read as follows:

§ 1.14 Patent applications preserved in secrecy.

* * * * *

(d) Any decision of the Board of Patent Appeals and Interferences, or any decision of the Commissioner on petition, not otherwise open to public inspection shall be published or made available for public inspection if: (1) The Commissioner believes the decision involves an interpretation of patent laws or regulations that would be of important precedent value; and (2) the applicant, or any party involved in the interference, does not within one month after being notified of the intention to make the decision public, object in writing on the ground that the decision discloses a trade secret or other confidential information. If a decision discloses such information, the applicant or party shall identify the deletions in the text of the decision considered necessary to protect the information. If it is considered the entire decision must be withheld from the public to protect such information, the applicant or party must explain why. Applicants or parties will be given time, not less than twenty days, to request reconsideration and seek court review before any portions of decisions are made public over their objection. See § 2.27 for trademark applications.

Harry F. Manbeck, Jr.,

Assistant Secretary and Commissioner of Patents and Trademarks.

[FR Doc. 91-25879 Filed 10-25-91; 8:45 am]

BILLING CODE 3510-16-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 46

RIN 2900-AF55

Participation in the National Practitioner Data Bank

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This rule sets forth the policy of the Department of Veterans Affairs (VA) for participation in the National Practitioner Data Bank (Data Bank). VA will request information from the Data Bank concerning physicians, dentists and other health care practitioners who provide or seek to provide health care services at VA facilities and will also report information to the Data Bank regarding malpractice payments and adverse clinical privileges actions. The intended effect of this policy is to participate in the Data Bank for the purpose of promoting better health care at VA and non-VA health care facilities.

EFFECTIVE DATE: October 28, 1991.

FOR FURTHER INFORMATION CONTACT: Susan J. Brennan (10A2), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

SUPPLEMENTARY INFORMATION: The Health Care Quality Improvement Act of 1986, as amended, (42 U.S.C. 11101–11152), provides for the establishment of the Data Bank. The Department of Health and Human Services has overall administrative responsibility for the Data Bank which is operated on its behalf by a private contractor. The Act includes provisions for VA to participate in the Data Bank by entering into a Memorandum of Understanding with the Department of Health and Human Services. VA has entered into such a Memorandum of Understanding which sets forth its policies for participation in the Data Bank. Pursuant to the Memorandum of Understanding, VA will obtain information from the Data Bank concerning physicians, dentists and other health care practitioners who provide or seek to provide health care services at VA facilities and will also report to the Data Bank information regarding malpractice payments and adverse clinical privileges actions. This final rule establishes a new 38 CFR part 46 which essentially restates or interprets provisions of that Memorandum of Understanding and constitutes the policy of VA for participation in the Data Bank.

Executive Order 12291 and Regulatory Flexibility Act

Executive Order 12291 requires the Department to prepare and publish an initial regulatory impact analysis for any proposed major rule. A major rule is defined as any regulation that is likely to: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions; or (3) result in significant