drive system components must be representative of rotorcraft conditions.

(e) A means must be provided to automatically control or otherwise prevent any engine from exceeding the installed engine limits associated with the 30-second power rating.

(f) A means must be provided to indicate to the pilot when the engine is at the 30-second and the 2-minute OEI power levels, when the event begins, and when the time interval expires.

(g) A device or system must be provided which records each usage and duration of 30-second and 2-minute OEI powers. Retrieval of the recorded data must be possible. The recorder must be capable of being reset only by ground maintenance personnel and a means must be provided to verify proper operation of the system or device.

(h) 30-second/2-minute OEI power can only be used for continued operation of the remaining engine(s) after a failure or precautionary shutdown of an engine. It must be shown that, following application of 30-second or 2-minute OEI power, any damage will be readily detectable by inspections and other related procedures which must be furnished in accordance with section A29.4 of appendix A or part 29 and section A33.4 of appendix A of part 33.

(i) The use of 30-second or 2-minute OEI power must be limited to not more than 30 seconds or 2 minutes, respectively, for any period in which those powers are used and must also be limited by the maximum rotational speed that may not be greater than the maximum value determined by the rotor design or the maximum value demonstrated during the type certification tests. Additionally, the use of these OEI ratings is also limited by the maximum allowable gas temperature and the maximum allowable torque.

(j) Each OEI limit or approved operating range must be marked to be clearly differentiated from the markings required in § 29.1549(a) through (d). No marking is required for the 30-second OEI power limit.

The method of training flight crewmembers in the correct procedures and the use of these new OEI power ratings and equipment should be considered during the design and certification process. Training flights utilizing these ratings may be prohibitive based upon possible engine damage and cost; therefore, some form of simulation should be considered for training.

Issued in Forth Worth, Texas, on July 31, 1992.

Henry A. Armstrong,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 92-19224 Filed 8-11-92; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 91-AWA-9]

Proposed Airport Radar Service Area in the Vicinity of Newburgh, NY; Results of Public Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Results of comments and public meeting.

SUMMARY: The Federal Aviation Administration (FAA) held a public meeting on February 26, 1992, to discuss whether to establish an Airport Radar Service Area (ARSA) at the Stewart International Airport, Newburgh, NY. The FAA has determined not to proceed with establishing an ARSA at this time.

FOR FURTHER INFORMATION CONTACT: Patricia P. Crawford, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9255.

SUPPLEMENTARY INFORMATION: On February 6, 1992, the Federal Aviation Administration (FAA) issued a notice of public meeting (57 FR 4589) to discuss whether to establish an ARSA at the Stewart International Airport, Newburgh, NY. The informal airspace meeting was held on February 26, 1992, attended by approximately 170 persons. The FAA also received 48 comments on this preliminary proposal. Most commenters and persons attending the meeting opposed establishing an ARSA.

The FAA has completed a review of the regulatory airspace requirements for the proposal to establish an ARSA at Stewart International Airport, Newburgh, NY. Based upon this review and the comments received, the FAA has concluded that further regulatory action to establish an ARSA is not warranted at this time.

Issued in Washington, DC, on July 30, 1992.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 92-19106 Filed 8-11-92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[GL-173-89]

RIN 1545-AN46

Property Exempt From Levy; Hearing Cancellation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Cancellation of notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations regarding property which is exempt from levy by increasing existing dollar amounts for specific exempt property, adding additional types of property to the list of exempt property, and exempting a taxpayer's principal residence from levy unless jeopardy is determined or unless the levy is approved in writing by the district director or assistant district director.

DATES: The public hearing originally scheduled for Friday, August 21, 1992, beginning at 1 p.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Bob Boyer of the Regulations Unit, Assistant Chief Counsel (Corporate), 202-622-7190, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations (26 CFR part 301) under section 6334 of the Internal Revenue Code. A notice appearing in the **Federal Register** for Wednesday, May 27, 1992 (57 FR 22194), announced that the public hearing on the proposed regulations would be held on Friday, August 21, 1992, beginning at 1 p.m. in the Internal Revenue Service Auditorium, Internal Revenue Service Building, Seventh Floor, 7400 Corridor, 1111 Constitution Avenue, NW., Washington, DC.

The public hearing scheduled for Friday, August 21, 1992, has been cancelled.

By direction of the Commissioner of Internal Revenue.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 92-19114 Filed 8-11-92; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010-AB81

Oil Spill Prevention and Response for Offshore Facilities Including State Submerged Lands and Pipelines

AGENCY: Minerals Management Service, Interior.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: Certain responsibilities and authorities under the Federal Water Pollution Control Act (FWPCA) as amended by the Oil Pollution Act of 1990 (OPA) have been delegated to the Secretary of the Interior (Secretary). These new authorities apply to all offshore areas including State submerged lands and cover oil spill prevention and response for owners of offshore facilities, including associated pipelines. This advance notice of proposed rulemaking informs the public that the Minerals Management Service (MMS) is preparing to develop regulations under this new authority and is soliciting information concerning the development of these requirements.

DATES: Comments must be received or postmarked by September 28, 1992.

ADDRESSES: Comments should be mailed or hand delivered to the Department of the Interior; Minerals Management Service, Mail Stop 4700; 381 Elden Street; Herndon, Virginia 22070-4817; Attention: Engineering and Standards Branch.

FOR FURTHER INFORMATION CONTACT: John V. Mirabella, Engineering and Standards Branch, telephone (703) 787-1600 or (FTS) 393-1600.

SUPPLEMENTARY INFORMATION: In August 1990, Congress passed the OPA containing various provisions aimed at strengthening oil spill prevention efforts and oil spill response capability. The OPA included amendments to FWPCA. To implement the authority under FWPCA as amended by OPA, Executive Order (E.O.) 12777 was signed by the President on October 18, 1991, and published in the **Federal Register** on October 22, 1991 (56 FR 54757). The E.O. 12777 delegated certain responsibilities to the Secretary, including some responsibilities with regard to FWPCA. Sections 2(b)(3), 2(d)(3), and 2(e)(3) of E.O. 12777 delegated to the Secretary those responsibilities under FWPCA that are vested in the President by "* * * Section 311(j)(1)(C) of FWPCA, respecting the establishment of procedures, methods, and equipment and other requirements for equipment to prevent and to contain discharges of oil and hazardous substances from offshore facilities, including associated pipelines, other than deepwater ports subject to the [Deepwater Ports Act (DPA)] * * *"; "* * * Section 311(j)(5) of FWPCA and Section 4202(b)(4) of OPA, respecting the issuance of regulations requiring the owners or operators of offshore facilities, including associated pipelines, other than deepwater ports subject to the DPA, to prepare and submit response plans, the approval of means to ensure availability of private personnel and equipment, the review and approval of such response plans, and the authorization of offshore facilities, including associated pipelines, other than deepwater ports subject to the DPA, to operate without approved response plans * * *"; and "* * * by section 311(j)(6)(A) of FWPCA, respecting the requirement for periodic inspection of containment booms and equipment used to remove discharges at offshore facilities, including associated pipelines, other than deepwater ports subject to the DPA * * *," respectively.

The new authorities apply to all offshore areas including State submerged lands. Portions of these new authorities and responsibilities are similar to existing MMS authorities and responsibilities for oil and gas operations in the Outer Continental Shelf (OCS). These regulations at 30 CFR part 250 are under the authority of the OCS Lands Act (43 U.S.C. 1331 *et seq.*) and govern all phases of oil and gas operations under a lease.

Oil, gas, and sulphur operations in the OCS are governed by operating regulations at 30 CFR part 250. These regulations have the objectives of safety, protection of the environment, conservation of natural resources, prevention of waste, and protection of correlative rights. Many of the regulations address all of the objectives at the same time. For example, many requirements are directed at prevention of blowouts (uncontrolled flow of hydrocarbons). A blowout is a safety concern, an oil spill resulting from a blowout is an environmental concern, and the oil lost due to a blowout is a concern from the standpoint of conservation of natural resources and prevention of waste. Other requirements, in particular those contained in 30 CFR part 250, subpart C, Pollution Prevention and Control, are primarily directed at the protection of the environment. The requirements in Subpart C that address water pollution (as opposed to air pollution) are generally applicable to the intent of the oil spill response aspects of FWPCA.

Section 250.40, Pollution prevention, establishes both general and specific requirements for prevention of pollution, responsibility for cleanup of pollution, requirements for marking of equipment, and requirements for reporting of items lost overboard. Section 250.41, Inspections and reports, establishes requirements for daily and monthly inspection of the facility and equipment, recording of inspection results, maintenance and repair of equipment based on inspections, and reporting of spills and other pollution events.

Section 250.42, Oil spill contingency plans, requires that blesses in the OCS submit an Oil Spill Contingency Plan (OSCP) for approval by the Regional Supervisor with or prior to submitting an Exploration Plan or a Development and Production Plan. The OSCP is reviewed and updated annually, and all modifications are submitted for approval to the Regional Supervisor for the appropriate Region. An OSCP under existing regulations includes an oil spill trajectory analysis specific to the area of operations, an identification of sensitive areas that may be impacted and strategies to protect these sensitive areas, an identification of response equipment suitable for anticipated environmental conditions and response time for deploying the equipment, and a dispersant-use plan. The OSCP must also address inspection and maintenance of response equipment, early detection and timely notification of an oil spill, specific actions to be taken after discovery of an oil spill, disposal of recovered oil, oil-contaminated material and other oily wastes, and monitoring and predicting spill movement. In the Alaska OCS Region only, the OSCP addresses procedures for ignition of an uncontrollable oil spill and the guidelines to be followed in making the decision to ignite.

Section 250.43, Training and drills, requires that lesses and operators ensure that the oil spill response team is provided with hands-on training classes at least annually in the deployment and operation of the pollution-control equipment and that personnel responsible for supervising the oil spill response operations are trained in directing the deployment and use of all response equipment and know the location and intended use of available response equipment, spill reporting procedures,. and deployment strategies for the facilities under their jurisdiction. Lessees and operators are also required to have annual drills for familiarization

with pollution-control equipment and operational procedures.

The MMS need to determine the extent to which existing regulations governing operations in the OCS meet the new requirements of the FWPCA. One specific area that MMS will address concerns the concept of "worst case." The OPA added a new provision in section 311(j)(5) of FWPCA to require owners or operators of tank vessels and facilities "to submit to the President a plan for responding to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such discharge, of oil or hazardous substance." The FWPCA as amended further provides that the plans shall

"(i) Be consistent with the requirements of the National Contingency Plan and Area Contingency Plans;

(ii) Identify the qualified individual having full authority to implement removal actions, and require immediate communications between the individual and the appropriate Federal Official and the persons providing personnel and equipment pursuant to clause (iii);

(iii) Identify, and ensure by contract or other means approved by the President the availability of, private personnel and equipment necessary to remove to the maximum extent practicable a worst case discharge (including a discharge resulting from fire or explosion), and to mitigate or prevent a substantial threat of such discharge;

(iv) Describe the training, equipment, testing periodic unannounced drills, and response actions of persons on the vessel or at the facility, to be carried out under the plan to ensure the safety of the vessel or facility and to prevent the discharge, or the substantial threat of a discharge;

(v) Be updated periodically; and

(vi) Be resubmitted for approval of each significant change."

In developing regulations to implement FWPCA, MMS will need to determine whether current requirements for OSCP's fulfill the responsibilities delegated to MMS under E.O. 12777. In addition, MMS will determine what regulations are needed for facilities in areas under lease by a State and to offshore pipelines on a right-of-way.

The MMS anticipates that regulations implementing MMS's authority under FWPCA will use the framework described in one of the following options.

Option 1

The MMS would expand regulations governing the OCS leases to ensure that requirements under FWPCA were met and would develop regulations for State leases and for all offshore pipelines to parallel regulations governing OCS leases.

Option 2

The MMS would expand regulations governing OCS leases to ensure that requirements under FWPCA were met. The MMS would address oil spill response by establishing regulations governing State leases and offshore pipelines on a right-of-way to parallel regulations governing OSCP requirements for OCS leases and, in addition, would establish regulations to require State lessees and pipeline owners to submit a second plan that addresses the procedure, method, and equipment they will employ to prevent discharge of oil and hazardous substances from offshore facilities. The second plan addressing oil spill prevention would reference any legally enforceable regulations with which the owner of the offshore facility was required to comply (e.g., State or local regulations). The MMS would require additional safeguards, as needed, to ensure that appropriate prevention and response measures were in place.

Option 3

Use Option 1 or Option 2, or portions of those options, in combination with a program with State agencies whereby a State could enter into a Memorandum of Understanding (MOU) with MMS to establish that the State would, under existing State authority, establish requirements for spill prevention and response. To the extent that the State had established a State program meeting the substantive requirements of the MMS program, MMS would exempt State lessees operating in the area offshore from that State from the new requirements. It is expected that MMS would reserve the authority to require additional provisions at any time that such measures were determined to be necessary.

Option 4

The MMS would develop a new set of regulations specifically implementing MMS authority under FWPCA. The new regulations, separate from 30 CFR part 250, would govern all offshore areas including State submerged lands and would cover all facilities including pipelines.

While commenters are invited to address any or all aspects of MMS's implementation of the new authority under FWPCA, respondents are specifically requested to address the following questions:

1. Is one of the options outlined preferable to the other options and why? The MMS requests comments on these four options as well as any other options commenters wish to formulate. It may not be necessary that all offshore activities be regulated in the same manner. For example, MMS may determine that the option most appropriate for State oil and gas leases is not the one most appropriate for offshore pipelines on a right-of-way.

2. What are the costs to State and local governments to implement spill prevention and response programs? How will these costs be affected by initiatives which are expected to occur under State or local statutes? How would cost be expected to change as a result of each of the identified options?

3. What are the costs to industry to comply with current spill prevention and response programs? How are these costs expected to change as a result of and anticipated changes in State or local programs? How would these costs be expected to change as a result of each of the identified options?

4. How should "worst case" be defined for drilling activities, for production operations, and for pipelines? Current regulations governing OCS oil and gas operations require that OSCP's address "continuous oil discharges (e.g., well blowouts) and spills of short duration and limited maximum volume (e.g., tank overflows, hose failures)." How should this definition be changed to address "worst case" as used in OPA?

5. What special requirements are necessary for pipeline contingency plans?

6. Should operators be permitted to submit a single OSCP for nearby State and Federal leases?

7. What role should States have with regard to activity in State waters? Authority under FWPCA will be exercised by MMS; however, in cases where State or local governments have regulations in place, MMS may opt to accept compliance with State or local regulations as full or partial evidence of adequate oil spill prevention or response procedures.

8. Is it appropriate to develop MOU's with State governments or with other Federal agencies? Some MOU's may be appropriate in view of overlapping authorities between FWPCA and other statutes.

9. Of the requirements for spill prevention and response that are currently in place for facilities other than OCS leases, which ones are considered to be most effective?

Persons choosing to respond to this notice should send comments to the address shown in the addresses section.

Following the analysis of comments received proposed rules governing oil spill prevention and response for offshore facilities will be developed and published in the **Federal Register**.

Dated: June 10, 1992.

Richard Roldan,

Deputy Assistant Secretary for Land and Minerals Management.

[FR Doc. 92-19153 Filed 8-11-92; 8:45 am]

BILLING CODE 4310-MR-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD13 89-03, CGD13 88-09]

Security Zones; Puget Sound, WA; Sinclair Inlet, WA

AGENCY: Coast Guard, DOT.

ACTION: Withdrawal of proposed rules.

SUMMARY: The Coast Guard is withdrawing two proposed rulemakings to establish security zones for Puget Sound Naval Shipyard, Bremerton, and for other Naval facilities adjacent to the Puget Sound basin. These rulemakings are being withdrawn at the Navy's request because the Navy no longer needs these proposed security zones.

DATES: The proposed rulemakings are withdrawn effective August 12, 1992.

FOR FURTHER INFORMATION CONTACT: CDR W.O. Harper at (206) 553-1711, or by mail to Commander, Thirteenth Coast Guard District (mps), 915 Second Avenue, Jackson Federal Building, Seattle, WA 98174-1067. Office hours are 8 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: This notice withdraws the notice of proposed rulemaking for a security zone at Puget Sound Naval Shipyard, Bremerton, Washington (Sinclair Inlet), published in the **Federal Register** December 8, 1988 (53 FR 94562, CGD13 88-09) and for the security zones proposed for other Naval facilities adjacent to the Puget Sound basin published September 29, 1989 (54 FR 40127, CGD13 89-03). These proposed rulemakings, published under authority of 33 U.S.C. 1231, are being withdrawn at the Navy's request. The Navy no longer has a need for security zones at these locations on an active or inactive basis.

For the reasons stated above the notices of proposed rulemaking, CGD13 89-03 and CGD13 88-09, are withdrawn.

Dated: August 7, 1992.

J.E. Vorbach

Rear Admiral, U.S. Coast Guard, Commander, Thirteenth Coast Guard District.

[FR Doc. 92-19175 Filed 8-11-92; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 179

[CGD 77-115]

1RIN 2115-AA16

Defect Notification and First Purchaser Information

AGENCY: Coast Guard, DOT.

ACTION: Notice of withdrawal.

SUMMARY: On December 29, 1980, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** [45 FR 85475] proposing amendments to the regulations covering Defect Notification.

The purpose of the proposed rulemaking was to increase the numbers of owners of recreational boats and associated equipment (inboard engines, outboard motors, and sterndrive units) who are successfully notified by manufacturers of a failure to comply with an applicable Coast Guard safety standard,, or of the existence of a defect which creates a substantial risk of personal injury to the public. Because of Government-wide constraints on regulations involving information collections and Coast Guard concern about the anticipated reporting and recordkeeping burdens, consideration of comments and publication of a final rule were delayed.

On May 29, 1987, the Coast Guard published a Supplementary Notice of Proposed Rulemaking (SNPRM) in the **Federal Register** [52 FR 20115] because more than six years had elapsed since publication of the NPRM. Once adopted as a final rule, this proposal would have required boat and engine manufacturers to establish and maintain first purchaser lists and would have required marine dealers to furnish the manufacturers with the information necessary to establish those lists: the serial numbers of new boats and engines sold and the names and addresses of retail first purchasers of those products. However, this Supplementary Notice of Proposed Rulemaking never proceeded to final rule stage. Again, the primary reason for not pursuing the proposed amendments was a concern that the proposed information collection requirements would impose an undue paperwork burden upon recreational boat manufacturers and dealers.

The Coast Guard has since investigated other approaches for increasing the availability of first purchaser information for manufacturers. It has examined the availability of other sources for retail purchaser information. Section 12308 of chapter I of title 46, U.S. Code allows a person, including a manufacturer, to request from vessel numbering system records, numbering and registration information for a vessel, when the issuing authority is satisfied that the request is reasonable and related to a boating safety purpose.

This proposed rulemaking is being withdrawn because State vessel numbering and registration information is available to boat manufacturers from most issuing authorities, and it contains retail purchaser information which can be used for defect notification—a boating safety purpose. The Coast Guard will continue to work with the National Boating Safety Advisory Council (NBSAC) and the National Association of State Boating Law Administrators (NASBLA) towards making purchaser information readily available to boat manufacturers from all vessel numbering and issuing authorities. This approach will allow existing records to be utilized instead of increasing information collection, recordkeeping, and other paperwork burdens for boat and engine manufacturers and marine dealers.

EFFECTIVE DATE: August 12, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Alston Colihan, Recreational Boating Product Assurance Branch, (202) 267-0981.

W.J. Ecker,

Rear Admiral, U.S. Coast Guard, Office of Navigation Safety and Waterway Services.

[FR Doc. 92-19171 Filed 8-11-92; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1 and 10

[Docket No. 920671-2171]

RIN 0651-AA55

Changes in Signature and Filing Requirements for Correspondence Filed in the Patent and Trademark Office

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Patent and Trademark Office (Office) is proposing to amend the rules of practice in patent and trademark cases to: Specify the types of correspondence which would no longer require original signatures; provide for facsimile transmission of certain correspondence to the Office; discontinue use of the drop box at Crystal Plaza Building 3 and at the Department of Commerce Building in Washington, DC; and clarify other provisions with respect to practice before the office.

DATES: Written comments must be received on or before October 13, 1992 to ensure consideration. An oral hearing will not be conducted.

ADDRESSES: Address written comments to the Office of the Assistant Commissioner for Patents, Box DAC, Washington, DC 20231, marked to the attention of Abraham Hershkovitz. Comments may be sent by facsimile to the attention of Abraham Hershkovitz at (703) 305–8825.

FOR FURTHER INFORMATION CONTACT: Abraham Hershkovitz by telephone at (703) 305–9282 or by mail marked to his attention and addressed to Office of the Assistant Commissioner for Patents, Box DAC, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: The specific revisions proposed are discussed below:

(1) Types of Correspondence No Longer Requiring Original Signatures (Section 1.4)

The phrase correspondence is proposed to be utilized since the terms papers, letters and fees all fall within the generic definition of correspondence. Prosecution of some applications has been significantly delayed in the past by the Office requirement that all responses be personally signed. That requirement for a personal signature would prevent the Office from accepting the filing of certain correspondence by facsimile transmission as explained in the discussion of proposed § 1.6(d).

It is therefore proposed that § 1.4(d) be added to specify the types of correspondence which require personal signatures and the manner in which correspondence should be signed. The Office will accept copies of correspondence which do not require an original handwritten signature, including photocopies or facsimile transmissions. For example, a photocopy or facsimile transmission of an amendment signed by the attorney may be submitted to the Office. However, a photocopy or any other reproduction of a signature may not be affixed, by anyone other than the person whose signature is being reproduced, to correspondence requiring a signature. Correspondence submitted to the Office with original signatures should be submitted with signatures in a color of ink different from the printing on the paper so that the Office may easily recognize that the correspondence has been personally signed. Correspondence bearing an original signature, if not submitted to the Office, should be retained by applicants as evidence of proper execution in the event that questions arise as to the authenticity of the photocopy or facsimile-transmitted correspondence. If a question of authenticity arises, the Office may require submission of the correspondence bearing the original signature.

Correspondence submitted in an application filed under the Patent Cooperation Treaty often require an original handwritten signature either by the treaty or the regulations under the treaty. Other examples where original signatures will continue to be required are in patent interference proceedings, enrollment and disciplinary investigations and disciplinary proceedings. Proposed § 1.4(e) identifies the types of correspondence which will continue to require original signatures. Copies, including photocopies or facsimile transmissions, of correspondence which require an original handwritten signature will not be accorded a filing date and may be disposed of. (See § 10.18 for signature requirements of a practitioner). Furthermore, when certified documents must be filed, such as a certified copy of a foreign patent application, pursuant to 35 U.S.C. 119; a certified copy of a foreign trademark registration, pursuant to 15 U.S.C. 1126(e); a certified copy of a final court order, pursuant to 15 U.S.C. 1119; or a certified copy of a U.S. trademark registration, only the original certification is acceptable for filing in the Office. However, this requirement for an original certification of documents does not apply to certifications such as required under §§ 1.8, 1.10 and 1.97(e). The phrase "personal signature" and "personally signed" as used in this section refers to an original handwritten signature.

(2) Identification of Applications (Section 1.5)

Section 1.5(a) is proposed to be amended to make reference to the certificate procedure under § 1.8 consistent with the newly proposed title for § 1.8.

(3) Receipt of Correspondence (Section 1.6)

A descriptive heading is proposed to be added to each paragraph of § 1.6 to identify the content of that paragraph.

The phrase "correspondence" is proposed to be utilized since the terms "papers", "letters" and "fees" all fall within the generic definition of "correspondence".

Section 1.6(a) is proposed to be amended to clarify that correspondence transmitted by facsimile on weekends and Federal holidays within the District of Columbia, will be accorded the next business day as a receipt date.

Sections 1.6 (b) and (c) are proposed to be amended to clarify that weekdays refer to any day except a Saturday, Sunday, or Federal holiday within the District of Columbia.

Section 1.6(c) is proposed to be amended to delete reference to the box locations in the lobby of Crystal Plaza Building 3, Arlington, Virginia and at the Department of Commerce Building in Washington, DC. The use of the drop boxes was discontinued on April 21, 1992 and the hours of operation for the attorney's window were extended to midnight, the same hours the drop boxes were available. The public can now deposit correspondence with the Office and receive a receipt after normal business hours. See "Changes in How Papers May Be Filed in the Patent and Trademark Office", 1137 *Off. Gaz. Pat. Office* 7 (April 7, 1992). Use of the drop boxes at Crystal Plaza Building 3 and Department of Commerce Building locations had caused problems for both the public and the Office. It occasionally had been difficult to determine the dates of actual deposit of correspondence in the boxes. On occasion, Office employees and/or members of the public had been denied access to the drop box at the Department of Commerce by building security guards due to a special event taking place at the Department. Additionally, there were instances of correspondence being found outside of the drop boxes (e.g., on the floor of the main lobby of the Department of Commerce Building, on the guard's desk, on a nearby table, etc.). As a result, on occasion, the Office lacked confidence in assigning correct dates of receipt to correspondence deposited in the boxes at Crystal Plaza Building 3 and at the Department of Commerce Building. Given these difficulties, and the fact that the necessity for these boxes is greatly diminished as a result of the facsimile transmission and certificate of transfer (formerly mailing) procedures, § 1.6(c) is

proposed to be permanently amended by deleting reference to the drop boxes at Crystal Plaza Building 3 and the Department of Commerce Building. While this procedural change has already been implemented, the Office welcomes comments regarding the boxes before the procedure is finalized.

A new section 1.6(d) is proposed to be added to specify the types of correspondence which may be transmitted by facsimile and current § 1.6(d) is proposed to be redesignated as § 1.6(e). The widespread use of facsimile transmission and the resulting time saved in correspondence between applicants and the Office prompted the Office to establish a trial program to accept facsimile transmission of certain correspondence. The policy on "Filing of Certain Papers and Authorizations to Charge Deposit Accounts by Facsimile Transmissions" was published at 1096 *Off. Gaz. Pat. Office* 30 (November 15, 1988) and was supplemented in the notice "Filing of Certain Papers with the Board of Patent Appeals and Interferences by Facsimile Transmission" published at 1108 *Off. Gaz. Pat. Office* 15 (November 14, 1989). A comparable policy for trademarks was announced at 1123 *Off. Gaz. Pat. Office* 18 (February 12, 1991). In light of the success of the trial program, a policy on acceptance of facsimile transmission is proposed to be incorporated into § 1.6(d). The exceptions to the use of facsimile-transmitted correspondence have been reduced and are identified in proposed § 1.6(d)(1)–(8). The exceptions cover situations where the correspondence being transmitted are original documents or correspondence requiring original signatures as specified in proposed § 1.4 and situations where accepting a facsimile transmission would be unduly burdensome on the Office. As a courtesy, the Office will attempt to notify senders whenever a facsimile transmission received falls within one of these exceptions. Senders are cautioned against submitting such excepted correspondence by facsimile transmission since such correspondence will not receive a filing date or date of receipt in the Office, and are subject to disposal.

Drawings and other correspondence filed for the purpose of obtaining an application filing date will not be accorded a date of receipt if transmitted by facsimile. Formal drawings may not be filed by facsimile in patent applications because the quality of the drawings received by facsimile transmission is not of a quality sufficient to comply with the drawing requirements set forth in § 1.84. Applicants are therefore encouraged to submit by facsimile transmission only informal drawings or proposed drawing corrections.

As to specimens and drawings in trademark cases, the proposed rule relaxes the requirements set out in the notice entitled Filing of Certain Trademark Papers and Authorizations to Charge Deposit Accounts by Facsimile Transmission, 1123 *Off. Gaz. Pat. Office* 18 (February 12, 1991). The proposed rule continues to prohibit the transmission by facsimile of the original application, the section 8 or section 9 affidavit, the statement of use or the amendment to allege use. However, the proposed rule permits the facsimile transmission of drawings or specimens in response to an Office action. The same standards of drawing clarity and size apply to drawings received via facsimile. In a like manner, facsimile-transmitted specimens must be legible in order to be accepted and examined as specimens.

The date of receipt accorded to any correspondence permitted to be sent by facsimile transmission is the date the complete transmission is received by an Office facsimile unit, unless the transmission is completed on a Saturday, Sunday, or Federal holiday within the District of Columbia. Correspondence for which transmission was completed on a Saturday, Sunday, or Federal holiday within the District of Columbia, will be accorded a receipt date of the next succeeding day which is not a Saturday, Sunday, or Federal holiday within the District of Columbia. As an example, correspondence sent by facsimile from California on a Friday at 8:45 p.m. is completely transmitted at 9:05 p.m. Pacific time. The complete transmission would be received in the Office around 12:05 a.m. Eastern time on Saturday. The receipt date accorded to the correspondence is the date of the following business day, which in this case, would be Monday.

(4) Certificate of Transfer Procedure (Section 1.8)

The title of § 1.8 is proposed to be changed from Certificate of Mailing to the more generic Certificate of Transfer so as to include facsimile transmissions.

Section 1.8(a) presently prescribes procedures for the use of a certificate of mailing to file papers or fees in the Office by first class mail. The phrase "papers or fees" in § 1.8(a) is proposed to be changed to "correspondence" since both "papers" and "fees" fall within the generic definition of "correspondence". Paragraphs (a) and (b) of § 1.8 are proposed to be amended to include correspondence transmitted by facsimile. In the event that correspondence is filed by facsimile transmission, it is recommended that the sending facsimile machine generate a report confirming transmission for each transmission session. This report should be retained by the sender, along with the correspondence used as the original, as evidence of content and date of transfer. Paragraph (a)(2) of § 1.8 is proposed to be amended to include separate headings for correspondence which relate to patents, trademarks and disciplinary proceedings. The sequence of some of the paragraphs found in § 1.8 (a)(2) has been changed in order to have those paragraphs listed under the appropriate heading. The ability to use the Certificate of Transfer procedures has been expanded to the filing of an affidavit under section 15, subsection (3) of the Trademark Act, 15 U.S.C. 1065(3), the filing of a notice of election to proceed by civil action in an inter partes proceeding under 35 U.S.C. 141 or section 21(a)(1) of the Trademark Act, 15 U.S.C. 1071(a)(1), in response to another party's appeal to the Court of Appeals for the Federal Circuit, the filing of a notice and reasons of appeal under 35 U.S.C. 142 or a notice of appeal under section 21(a)(2) of the Trademark Act, 15 U.S.C. 1071(a)(2), and the filing of a statement under 42 U.S.C. 2182 or 42 U.S.C. 2457(c).

Paragraph (a)(2)(vi) of § 1.8 is proposed to be redesignated as paragraph (a)(2)(viii) and amended to refer to section 14(1) or 14(2) of the Trademark Act, 15 U.S.C. 1064, to conform with the numbering of the Trademark Law Revision Act of 1988. Other sections of paragraph (a)(2) of § 1.8 are proposed to be amended to identify the types of correspondence which will not receive the benefit of a certificate of transfer.

Paragraph (b) of § 1.8 outlines procedures to be followed to document the timely filing of correspondence in accordance with § 1.8(a) where such correspondence is not received by the Office. The phrase "correspondence or fees" in § 1.8(b) is proposed to be changed to "correspondence" since "fees" falls within the generic definition of "correspondence". One of the requirements of § 1.8(b) is that the party forwarding the correspondence or fee include a declaration, under §§ 1.68 or 2.20 of this chapter, attesting to the timely transfer. In order to be consistent with other sections in parts 1 and 2 of this chapter, the practice under § 1.8(b) is proposed to be amended to permit a practitioner, as defined in § 10.1(r), to submit a statement rather than an oath

or declaration under §§ 1.68 or 2.20 of this chapter.

New paragraph (c) of § 1.8 is proposed to be added to explicitly provide for a requirement for additional evidence relating to the transfer of correspondence in accordance with paragraph (a) of this section. The Office may invoke this requirement where it is deemed appropriate to establish an actual date of mailing or transmission. See, e.g., *In re Klein*, 6 USPQ2d 1547 (Comm'r Pat. 1987), *aff'd sub nom. Klein* v. *Peterson*, 696 F. Supp. 695, 8 USPQ2d 1434 (D.D.C. 1988), *aff'd*, 866 F.2d 412, 9 USPQ2d 1558 (Fed. Cir.) *cert. denied*, 490 U.S. 1091 (1989).

(5) Time for Appeal or Civil Action (Section 1.304)

In section 1.304, paragraphs (a) and (c) are proposed to be amended to delete a statement that use of the certificate procedure under § 1.8 is prohibited so as to be consistent with proposed changes to § 1.8. It is also proposed to clarify a cross-reference to § 1.658 in paragraph (a).

(6) Submission of Maintenance Fees (Section 1.366)

Section 1.366(b) is proposed to be amended by deleting the words of mailing due to the proposed new title for § 1.8.

(7) Filing Date of Application for Extension of Patent Term (Section 1.741)

Section 1.741(a) is proposed to be amended to refer to the proposed new title for the certificate procedure under § 1.8.

(8) Signature and Certificate of Practitioner (Section 10.18)

Section 10.18 is proposed to be modified to clarify signature requirements for correspondence signed by practitioners. The reference to § 1.4 of this chapter would make it apparent that copies, including photocopies or facsimile transmissions, of correspondence signed by practitioners will be accepted under appropriate circumstances.

(9) Misconduct (Section 10.23(c))

Section 10.23(c) is proposed to be amended to refer to the proposed new title for the certificate procedure under § 1.8 of this chapter.

Other Considerations

The proposed rule change 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 Chief Counsel for Advocacy, Small Business Administration, that these proposed rule changes will not have a significant adverse economic impact on a substantial number of small entities (Regulatory Flexibility Act, 5 U.S.C. 605(b)). The principal impact of these proposed changes is to incorporate existing Office policy into the regulations, permit the filing of certain correspondence without an original signature and permit the filing of certain correspondence by facsimile transmission.

The Office has determined that this proposed 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, individuals, industries, Federal, state or local government agencies, or geographic regions because most of the proposed changes reduce procedural burdens. 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 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.

These proposed rule changes contain collection-of-information requirements subject to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, which have previously been approved by the Office of Management and Budget Under Control Nos. 0651–0009 and 0651–0011.

List of Subjects

37 CFR Part 1

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

37 CFR Part 10

Administrative practice and procedure, Conflicts of interest, Courts, Inventions and patents, Lawyers.

For the reasons set out in the preamble, and pursuant to the authority contained in 35 U.S.C. 6, the Office proposes to amend 37 CFR parts 1 and 10 as follows, wherein deletions are indicated by brackets ([]) and additions by arrows (> <):

PART 1—RULES OF PRACTICE IN PATENT CASES

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

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

2. In Section 1.4, the title is proposed to be revised and paragraphs (d)–(f) are proposed to be added to read as follows:

§ 1.4 Nature of correspondence >and signature requirements<.

* * * * *

>(d) Each piece of correspondence prepared to be filed in a patent or trademark application, reexamination proceeding, patent file or trademark registration file, which requires a person's signature, must be personally signed in permanent ink by that person. The personally signed correspondence containing the original, handwritten signature, or a copy, such as a photocopy or facsimile transmission (§ 1.6(d)), of the personally signed correspondence may be filed in the Patent and Trademark Office, except as provided in paragraphs (e) and (f) of this section. If the personally signed correspondence is filed, the color of ink used for the signature should be different from the printing on the paper. In the event that a copy of the personally signed correspondence is filed, the personally signed correspondence should be retained as evidence of authenticity. If a question of authenticity arises, the Patent and Trademark Office may require submission of the personally signed correspondence. The phrase "personally signed" as used in this section means an original, handwritten signature.

(e) Correspondence requiring a signature and which relates to patent interference proceedings, enrollment and disciplinary investigations, disciplinary proceedings or international patent applications must be submitted with a personally signed, permanent ink signature.

(f) When a certified document must be filed, a copy, including a photocopy or facsimile transmission, of the certification is not acceptable.<

3. Section 1.5(a) is proposed to be revised to read as follows:

§ 1.5 Identification of application, patent or registration.

(a) No correspondence relating to an application should be filed prior to when notification of the application number is received from the Patent and Trademark Office. When a letter directed to the Patent and Trademark Office concerns a

previously filed application for a patent, it must identify on the top page in a conspicuous location, the application number (consisting of the series code and the serial number, e.g., 07/123,456), or the serial number and filing date assigned to that application by the Patent and Trademark Office, or the international application number of the international application. Any correspondence not containing such identification will be returned to the sender where a return address is available. The returned correspondence will be accompanied with a cover letter which will indicate to the sender that if the returned correspondence is resubmitted to the Patent and Trademark Office within two weeks of the mail date on the cover letter, the original date of receipt of the correspondence will be considered by the Patent and Trademark Office as the date of receipt of the correspondence. Applicants may use either the [certificate of mailing] >Certificate of Transfer< procedure under § 1.8 or the Express Mail procedure under § 1.10 for resubmissions of returned correspondence if they desire to have the benefit of the date of deposit in the United States Postal Service. If the returned correspondence is not resubmitted within the two-week period, the date of receipt of resubmission will be considered to be the date of receipt of the correspondence. The two-week period to resubmit the returned correspondence will not be extended. If for some reason returned correspondence is resubmitted with proper identification later than two weeks after the return mailing by the Patent and Trademark Office, the resubmitted correspondence will be accepted but given its date of receipt. In addition to the application number, all letters directed to the Patent and Trademark Office concerning applications for patent should also state "PATENT APPLICATION," the name of the applicant, the title of the invention, the date of filing the same, and if known, the group art unit or other unit within the Patent and Trademark Office responsible for considering the letter and the name of the examiner or other person to which it has been assigned.

* * * * *

4. In § 1.6, the title is proposed to be revised, each paragraph is proposed to be defined by a separate heading, paragraphs (a)–(c) are proposed to be revised, paragraph (d) is proposed to be redesignated as paragraph (e) and revised and new paragraph (d) is proposed to be added to read as follows:

§ 1.6 Receipt of [letters and papers] >correspondence<.

(a) >*Date of receipt and Express Mail date of deposit.* Correspondence< [Letters and other papers] received in the Patent and Trademark Office [are] >is< stamped with the date of receipt except where such [letters and papers are] >correspondence is< filed in accordance with § 1.10 >or transmitted by facsimile in accordance with paragraph (d) of this section. No correspondence is received in the Patent and Trademark Office on Saturdays, Sundays or Federal holidays within the District of Columbia. Correspondence< [Any such letters and papers] filed in accordance with § 1.10 will be stamped with the date of deposit as "Express Mail" with the United States Postal Service unless the date of deposit is a Saturday, Sunday, or Federal holiday within the District of Columbia in which case the date stamped will be the next succeeding day which is not a Saturday, Sunday, or Federal holiday within the District of Columbia. [No papers are received in the Patent and Trademark Office on Saturdays, Sundays or Federal holidays within the District of Columbia. [No papers are received in the Patent and Trademark Office on Saturdays, Sundays or Federal holidays within the District of Columbia.] >Correspondence transmitted by facsimile to the Patent and Trademark Office on a Saturday, Sunday, or Federal holiday within the District of Columbia will be stamped with the next succeeding day which is not a Saturday, Sunday, or Federal holiday within the District of Columbia, as the date of receipt.<

(b) >*Patent and Trademark Office Post Office pouch.*< Mail placed in the Patent and Trademark Office pouch up to midnight on [weekdays, excepting] >any day, except< Saturdays >, Sundays< and >Federal< [federal] holidays >within the District of Columbia<, by the post office at Washington, DC, serving the Patent and Trademark Office, is considered as having been received in the Patent and Trademark Office on the day it was so placed in the pouch >by the U.S. Postal Service<.

(c) >*Correspondence delivered by hand.*< In addition to being mailed >, correspondence may be< [or] delivered by hand during [office] hours >the Office is open to receive correspondenc< [, letters and other papers may be deposited up to the midnight in a box provided at the guard's desk at the lobby of building 3 of the Patent and Trademark Office at Crystal Plaza, Arlington, Virginia and at the main entrance (14th Street) of the Department of Commerce Building, Washington, DC, on weekdays except Saturdays and Federal holidays, and all papers deposited therein are considered as received in the Patent and Trademark Office on the day of deposit].

(d) >*Facsimile transmission.* Except in the cases enumerated below, correspondence, including authorizations to charge a deposit account, may be transmitted by facsimile. The filing date accorded to the correspondence will be the date on which the complete transmission is received in the Patent and Trademark Office, unless that date is a Saturday, Sunday, or Federal holiday within the District of Columbia. See § 1.6(a). To facilitate proper processing, each transmission session should be limited to correspondence to be filed in a single national application or other proceeding before the Patent and Trademark Office. The application number of a patent or trademark application, the control number of a reexamination proceeding, the patent number of a patent, or the registration number of a trademark should be entered as part of the sender's identification on a facsimile cover sheet. Facsimile transmissions are not permitted and if submitted, may be disposed of, in the following situations:

(1) Correspondence which must be filed with a personally signed permanent ink signature as specified in § 1.4(e);

(2) Certified documents as specified in § 1.4(f);

(3) Correspondence which cannot receive the benefit of the certificate of transfer as specified in § 1.8(a)(2)(i)–(xi);

(4) Drawings submitted under §§ 1.81, 1.83–1.85, 1.152, 1.165 or 1.174;

(5) A request for reexamination under § 1.510;

(6) Correspondence to be filed in a patent application subject to a secrecy order under §§ 5.1–5.8 of this chapter and directly related to the secrecy order content of the application;

(7) Requests for cancellation or amendment of a registration under section 7(e) of the Trademark Act, 15 U.S.C. 1057(e); and certificates of registration surrendered for cancellation or amendment under section 7(e) of the Trademark Act, 15 U.S.C. 1057(e);

(8) Correspondence to be filed with the Trademark Trial and Appeal Board, except the notice of ex parte appeal.

(e) *Interruptions in U.S. Postal Service.*< If interruptions or emergencies in the United States Postal Service which have been so designated by the Commissioner occur, the Patent and Trademark Office will consider as

filed on a particular date in the Office any [paper or fee] >correspondence< which is:

(1) Promptly filed after the ending of the designated interruption or emergency; and

(2) Accompanied by a statement indicating that such [paper or fee] >correspondence< would have been filed on that particular date if it were not for the designated interruption or emergency in the United States Postal Service. Such statement must be a verified statement if made by a person not registered to practice before the Patent and Trademark Office.

5. Section 1.8 is proposed to be amended by revising the title and paragraphs (a) and (b) and by adding new paragraph (c) to read as follows:

§ 1.8 Certificate of [mailing] >transfer<.

(a) Except in the cases enumerated below, [papers and fees] >correspondence< required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if:

(1) [They are] >it is transferred prior to expiration of the set period of time by being:

(i) deposited with the U.S. Postal Service with sufficient postage as first class mail< addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231 [, and deposited with the U.S. Postal Service with sufficient postage as first class mail] >; or

(ii) transmitted by facsimile as set forth in § 1.6(d) to the Patent and Trademark Office< [prior to expiration of the set period:] ; and

(2) [They] >It< also [include] >includes< a certificate for each [paper or fee] >piece of correspondence< stating the date of [deposit] >transfer<. The person signing the certificate should have reasonable basis to expect that the correspondence would be [mailed] >transferred< on or before the date indicated. The actual date of receipt of the [paper or fee] >correspondence< will be used for all other purposes. This procedure does not apply to >, and the benefit of the date of transfer on the certificate will not be extended to,< the following:

>*Relative to Patents*<

(i) The filing of a national patent application specification and drawing or other [papers] >correspondence< for the purpose of obtaining an application filing date;

[(ii) The filing of trademark applications;]

>(ii) The filing of correspondence in an interference which an examiner-in-chief orders to be filed by hand or "Express Mail";<

(iii) The filing of agreements between parties to an interference under 35 U.S.C. 135(c);

>(iv) The filing of international applications for patent and all correspondence in international applications filed under chapter I and chapter II including the filing of documents and fees for entry into the national stage, see § 1.491;

Relative to Trademarks

(v) The filing of trademark applications;<

[(iv)] >(vi)< The filing of an affidavit showing that a mark is still in use or containing an excuse for nonuse under section 8 (a) or (b) or section 12(c) of the Trademark Act, 15 U.S.C. 1058(a), 1058(b), 1062(c);

[(v)] >(vii)< The filing of an application for renewal of a [mark] registration under section 9 of the Trademark Act, 15 U.S.C. 1059;

[(vi)] >(viii)< The filing of a petition to cancel a registration of a mark under section 14 [(a)] >, subsection (1)< or [(b)] >(2)< of the Trademark Act, 15 U.S.C. 1064 [(a), 1064(b)];

[(vii) The filing of an affidavit under section 15, subsection (3) of the Trademark Act, 15 U.S.C. 1065;

(viii) The filing of a notice of election to proceed by civil action in an inter partes proceeding under 35 U.S.C. 141 or section 21(a)(1) of the Trademark Act, 15 U.S.C. 1071(a)(1), in response to another party's appeal to the Court of Appeals for the Federal Circuit;

(ix) The filing of a notice and reasons of appeal under 35 U.S.C. 142 or a notice of appeal under section 21(a)(2) of the Trademark Act, 15 U.S.C. 1071(a)(2);

(x) The filing of a statement under 42 U.S.C. 2182 or 42 U.S.C. 2457(c);

(xi) The filing of international applications for patent and all papers and fees relating thereto;

(xii) The filing of a paper in an interference which an examiner-in-chief orders to be filed by hand or "Express Mail"; and

(xiii) Papers filed in connection with a disciplinary proceeding under part 10 of this subchapter.

(xiv) In an application under section 1(b) of the Trademark Act (15 U.S.C. 1051(b)), the filing of a statement of use under § 2.88 (15 U.S.C. 1051(d)).

(xv) In an application under section 1(b) of the Trademark Act (15 U.S.C. 1051(b)), the filing of a request under § 2.89 (15 U.S.C. 1051(d)), for an extension of time to file a statement of use under § 2.88 (15 U.S.C. 1051(d)).

(xvi) In an application under section 1(b) of the Trademark Act (15 U.S.C. 1051(b)), the filing of an amendment to allege use in commerce under § 2.76 (15 U.S.C. 1051(c)).]

>(ix) In an application under section 1(b) of the Trademark Act, 15 U.S.C. 1051(b), the filing of an amendment to allege use in commerce under section 1(c) of the Trademark Act, 15 U.S.C. 1051(c); or the filing of a statement of use under section 1(d)(1) of the Trademark Act, 15 U.S.C. 1051(d)(1);

(x) In an application under section 1(b) of the Trademark Act, 15 U.S.C. 1051(b), the filing of a request under section 1(d)(2) of the Trademark Act, 15 U.S.C. 1051(d)(2), for an extension of time to file a statement of use under section 1(d)(1) of the Trademark Act, 15 U.S.C. 1051(d)(1); and

Relative to Disciplinary Proceedings

(xi) Correspondence filed in connection with a disciplinary proceeding under part 10 of this subchapter.<

In the event that correspondence [or fees are] >is considered< timely filed >by being transferred< in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence [or fee] will be considered timely if the party who forwarded such correspondence [or fee]:

(1) Informs the Office of the previous [mailing] >transfer< of the correspondence [or fee] promptly after becoming aware [of] >that< the Office [action] >has no evidence of receipt of the correspondence<,

(2) Supplies an additional copy of the previously [mailed] >transferred< correspondence [or fee] and certificate, and

(3) Includes a [declaration under § 1.68 or § 2.20] >statement< which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely [mailing] >transfer. Such statement must be a verified statement if made by a person other than a practitioner as defined in § 10.1(r) of this chapter. If the transfer was by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

(c) The Office may require additional evidence to determine if the correspondence was timely filed<.

6. Section 1.304, paragraphs (a) and (c), are proposed to be revised to read as follows:

§ 1.304 Time for appeal or civil action.

(a) The time for filing the notice of appeal to the U.S. Court of Appeals for the Federal Circuit (§ 1.302) or for commencing a civil action (§ 1.303) is two months from the date of the decision of the Board of Patent Appeals and Interferences. If a request for reconsideration or modification of the decision is filed within the time period provided under § 1.197(b) or § 1.658 >(b)<, the time for filing an appeal or commencing a civil action shall expire two months after action on the request. In interferences, the time for filing a cross-appeal or cross-action expires:

(1) 14 days after service of the notice of appeal or the summons and complaint or

(2) Two months after the date of decision of the Board of Patent Appeals and Interferences, whichever is later. The time periods set forth in this section are not subject to the provisions of §§ 1.136, 1.550(c) or § 1.645 (a) or (b). The Commissioner may extend the time for filing an appeal or commencing a civil action

[(3)] For good cause shown if requested in writing before the expiration of the period for filing an appeal or commencing a civil action, or

[(4)] Upon written request after the expiration of the period for filing an appeal or commencing a civil action upon a showing that the failure to act was the result of excusable neglect. [The certificate of mailing practice of § 1.8 is not available for filing a notice of appeal or cross-appeal. See § 1.8(a)(2)(ix).]

* * * * *

(c) If a defeated party to an interference has taken an appeal to the U.S. Court of Appeals for the Federal Circuit and an adverse party has filed notice under 35 U.S.C. 141 electing to have all further proceedings conducted under 35 U.S.C. 146 (§ 1.303(c)), the time for filing a civil action thereafter is specified in 35 U.S.C. 141. The time for filing a cross-action expires 14 days after service of the summons and complaint. [The certificate of mailing practice of § 1.8 is not available for filing a notice of appeal or cross appeal. See § 1.8(a)(2)(viii).]

7. Section 1.366(b) is proposed to be revised to read as follows:

§ 1.366 Submission of maintenance fees.

* * * * *

(b) A maintenance fee and any necessary surcharge submitted for a patent must be submitted in the amount due on the date the maintenance fee and any necessary surcharge are paid and may be paid in the manner set forth in § 1.23 or by an authorization to charge a deposit account established pursuant to § 1.25. Payment of a maintenance fee and any necessary surcharge or the authorization to charge a deposit account must be submitted within the periods set forth in § 1.362(d), (e) or (f). Any payment or authorization of maintenance fees and surcharges filed at any other time will not be accepted and will not serve as a payment of the maintenance fee except insofar as a delayed payment of the maintenance fee is accepted by the Commissioner in an expired patent pursuant to a petition filed under § 1.378. Any authorization to charge a deposit account must authorize the immediate charging of the maintenance fee and any necessary surcharge to the deposit account. Payment of less than the required amount, payment in a manner other than that set forth in § 1.23, or the filing of an authorization to charge a deposit account having insufficient funds will not constitute payment of a maintenance fee or surcharge on a patent. The certificate [of mailing] procedures of either § 1.8 or § 1.10 may be utilized in paying maintenance fees and any necessary surcharges.

* * * * *

8. Section 1.741, paragraph (a), is proposed to be revised to read as follows:

§ 1.741 Filing date of application.

(a) The filing date of an application for extension of patent term is the date on which a complete application is received in the Patent and Trademark Office or filed pursuant to the "Certificate of [Mailing] >Transfer<" provisions of 37 CFR 1.8 or "Express Mail" provisions of 37 CFR 1.10.

* * * * *

PART 10—REPRESENTATION OF OTHERS BEFORE THE PATENT AND TRADEMARK OFFICE

9. The authority citation for 37 CFR part 10 would continue to read as follows:

Authority: 5 U.S.C. 500; 15 U.S.C. 1123; 35 U.S.C. 6, 31, 32, 41.

10. Section 10.18 is proposed to be revised to read as follows:

§ 10.18 Signature and certificate of practitioner.

(a) [Every paper] >Except where a copy, including a photocopy or facsimile transmission, of a personally signed piece of correspondence is permitted to be filed pursuant to § 1.4 of this chapter, every piece of correspondence< filed by a practitioner >on behalf of himself or herself or< representing an applicant or >a< party to a proceeding in the >Patent and Trademark< Office must bear the signature of, and be personally signed by, such practitioner except >for correspondence< [those papers] which [are] >is< required to be signed by the applicant or party. The signature of >a< practitioner [to] >on correspondence< [a paper] filed by him or her, >regardless of whether the correspondence has an original, handwritten signature or is a copy, including a photocopy or facsimile transmission, of the personally signed correspondence,< constitutes a certificate that:

(1) The [paper] >correspondence< has been read by the practitioner;

(2) The [paper's] filing >of the correspondence< is authorized;

(3) To the best of his or her knowledge, information, and belief, there is good ground to support the [paper] >correspondence<, including any allegations of improper conduct contained or alleged therein; and

(4) It is not interposed for delay.

(b) Any practitioner knowingly violating the provisions of this section is subject to disciplinary action. See § 10.23(c)(15).

11. Section 10.23, paragraph (c)(9), is proposed to be revised to read as follows:

§ 10.23 Misconduct.

* * * * *

(c) * * *

(9) Knowingly misusing a certificate of [mailing] >transfer< under § 1.8 of this [subchapter] >chapter< or a certificate of "Express Mail" under § 1.10 of this [subchapter] >chapter<.

* * * * *

Dated: August 4, 1992.

Douglas B. Comer,

Acting Assistant Secretary and Acting Commissioner of Patents and Trademarks.

[FR Doc. 92-19023 Filed 8-11-92; 8:45 am]

BILLING CODE 3510-16-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[ME-2-1-5249; A-1-FRL-4194-4]

Approval and Promulgation of Air Quality Implementation Plans; Maine—Capture Efficiency Test Procedure

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of