

the agenda will be available free of charge at the hearing.

### Drafting Information

The principal author of these proposed regulations is Vishal R. Amin, Office of the Chief Counsel (Passthroughs and Special Industries).

### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

### Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

#### PART 1—INCOME TAXES

**Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

**Par. 2.** Section 1.642(c)–3 is amended by:

1. Revising the paragraph heading of paragraph (b) and add a heading to paragraph (b)(1).
2. Revising paragraph (b)(2).
3. Adding a heading to paragraph (b)(3).
4. Removing paragraph (b)(4).

The revisions and additions read as follows:

#### **§ 1.642(c)–3 Adjustments and other special rules for determining unlimited charitable contributions deduction.**

\* \* \* \* \*

(b) *Determination of amounts deductible under section 642(c) and the character of such amounts—(1) Reduction of charitable contributions deduction by amounts not included in gross income.* \* \* \*

(2) *Determination of the character of an amount deductible under section 642(c).* In determining whether the amounts of income so paid, permanently set aside, or used for a purpose specified in section 642(c)(1), (2), or (3) include particular items of income of an estate or trust, whether or not included in gross income, a provision in the governing instrument or in local law that specifically provides the source out of which amounts are to be paid, permanently set aside, or used for such a purpose controls for Federal tax purposes to the extent such provision has economic effect independent of income tax consequences. See § 1.652(b)–2(b). In the absence of such specific provisions in the governing instrument or in local law, the amount to which section 642(c) applies is deemed to consist of the same proportion of each class of the items of

income of the estate or trust as the total of each class bears to the total of all classes. See § 1.643(a)–5(b) for the method of determining the allocable portion of exempt income and foreign income. This paragraph (b)(2) is illustrated by the following example:

*Example.* A charitable lead annuity trust has the calendar year as its taxable year, and is to pay an annuity of \$10,000 annually to an organization described in section 170(c). A provision in the trust governing instrument provides that the \$10,000 annuity should be deemed to come first from ordinary income, second from short-term capital gain, third from fifty percent of the unrelated business taxable income, fourth from long-term capital gain, fifth from the balance of unrelated business taxable income, sixth from tax-exempt income, and seventh from principal. This provision in the governing instrument does not have economic effect independent of tax consequences because the amount to be paid to charity is not dependent upon the type of income from which it is to be paid. Accordingly, the amount to which section 642(c) applies is deemed to consist of the same proportion of each class of the items of income of the trust as the total of each class bears to the total of all classes.

(3) *Other examples.* \* \* \*

\* \* \* \* \*

**Par. 3.** Section 1.643(a)–5 is amended by revising the text of paragraph (b) to read as follows:

#### **§ 1.643(a)–5 Tax-exempt interest.**

\* \* \* \* \*

(b) If the estate or trust is allowed a charitable contributions deduction under section 642(c), the amounts specified in paragraph (a) of this section and § 1.643(a)–6 are reduced by the portion deemed to be included in income paid, permanently set aside, or to be used for the purposes specified in section 642(c). If the governing instrument or local law specifically provides as to the source out of which amounts are paid, permanently set aside, or to be used for such charitable purposes, the specific provision controls for Federal tax purposes to the extent such provision has economic effect independent of income tax consequences. See § 1.652(b)–2(b). In the absence of specific provisions in the governing instrument, an amount to which section 642(c) applies is deemed to consist of the same proportion of each class of the items of income of the estate or trust as the total of each class bears to the total of all classes. For illustrations showing the determination of the character of an amount deductible under section 642(c), see *Examples 1*

and 2 of § 1.662(b)–2 and § 1.662(c)–4(e).

**Linda E. Stiff,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. E8–13611 Filed 6–17–08; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

#### 37 CFR Part 1

[Docket No.: PTO–P–2008–0023]

RIN 0651–AC28

### Fiscal Year 2009 Changes to Patent Cooperation Treaty Transmittal and Search Fees

**AGENCY:** United States Patent and Trademark Office, Commerce.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The United States Patent and Trademark Office (Office) is proposing to revise the rules of practice to adjust the transmittal and search fees for international applications filed under the Patent Cooperation Treaty (PCT). The Office is proposing to adjust the PCT transmittal and search fees to recover the estimated average cost to the Office of processing PCT international applications and preparing international search reports and written opinions for PCT international applications.

**DATES:** Written comments must be received on or before August 18, 2008. No public hearing will be held.

**ADDRESSES:** Comments should be sent by electronic mail message over the Internet addressed to [AC28.comments@uspto.gov](mailto:AC28.comments@uspto.gov). Comments may also be submitted by mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450, or by facsimile to (571) 273–0459, marked to the attention of Boris Milef, Office of the Deputy Commissioner for Patent Examination Policy. Although comments may be submitted by mail or facsimile, the Office prefers to receive comments via the Internet.

Comments may also be sent by electronic mail message over the Internet via the Federal eRulemaking Portal. See the Federal eRulemaking Portal Web site (<http://www.regulations.gov>) for additional instructions on providing comments via the Federal eRulemaking Portal.

The comments will be available for public inspection at the Office of the Commissioner for Patents, located in

Madison East, Tenth Floor, 600 Dulany Street, Alexandria, Virginia, and will be available through anonymous file transfer protocol (ftp) via the Internet (<http://www.uspto.gov>). Because comments will be made available for public inspection, information that the submitter does not desire to make public, such as an address or phone number, should not be included in the comments.

**FOR FURTHER INFORMATION CONTACT:**

Boris Milef, Legal Examiner, Office of PCT Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy, by telephone at (571) 272-3288; or by mail addressed to: Box Comments Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

**SUPPLEMENTARY INFORMATION:** The PCT enables United States applicants to file one application (an international or PCT application) in a standardized format in English in a Receiving Office (either the United States Patent and Trademark Office or the International Bureau of the World Intellectual Property Organization (WIPO)) and have that application acknowledged as a regular national or regional filing by PCT member countries. See Manual of Patent Examining Procedure (MPEP) § 1801 (8th ed. 2001) (Rev. 6, Sept. 2007). The primary benefit of the PCT system is the ability to delay the expense of submitting papers and fees to the PCT national offices. See MPEP 1893.

The Office acts as a Receiving Office (RO) for United States residents and nationals. See 35 U.S.C. 361(a), 37 CFR 1.412(a), and MPEP 1801. An RO functions as the filing and formalities review organization for international applications. See MPEP 1801. The Office, in its capacity as a PCT Receiving Office, received over 50,000 international applications in each of fiscal years 2006 and 2007. The Office also acts as an International Searching Authority (ISA). See 35 U.S.C. 362(a), 37 CFR 1.413(a), and MPEP 1840. The primary functions of an ISA are to establish: (1) International search reports, and (2) written opinions of the ISA. See MPEP 1840.

The transmittal and search fees for an international application are provided for in 35 U.S.C. 376. See 35 U.S.C. 376 (the Office “may also charge” a “transmittal fee,” “search fee,” “supplemental search fee,” and “any additional fees” (35 U.S.C. 376(a)), and the “amounts of [these] fees \* \* \* shall be prescribed by the Director” (35 U.S.C. 376(b)). In addition, 35 U.S.C. 41(d) provides that fee amounts set by the Office “recover the estimated

average cost to the Office of such processing, services, or materials.” See 35 U.S.C. 41(d). The Office has no basis for maintaining the PCT transmittal, search, and supplemental search fees at amounts less than that necessary to recover the estimated average cost to the Office of performing these functions for PCT international applications. Therefore, the Office is proposing to adjust the PCT transmittal fee and search fees to recover the estimated average cost to the Office of processing PCT international applications and preparing international search reports and written opinions for PCT international applications. The Office’s cost analysis for these activities reveals that the average cost of the initial processing of PCT international applications is slightly over \$415.00 and the average cost of search and preparation of ISA search reports or written opinions for international applications and for a supplemental search is slightly over \$2,225.00 for each invention.

**Discussion of Specific Rules**

Title 37 of the Code of Federal Regulations, part 1, is proposed to be amended as follows:

*Section 1.445:* Section 1.445(a)(1) is proposed to be amended to change the transmittal fee from \$300.00 to \$415.00. Section 1.445(a)(2) is proposed to be amended to change the search fee from \$1,800.00 to \$2,225.00. Section 1.445(a)(3) is proposed to be amended to change the supplemental search fee from \$1,800.00 to \$2,225.00.

**Rule Making Considerations**

*A. Initial Regulatory Flexibility Analysis*

*1. Description of the reasons that action by the agency is being considered:* The Office is proposing to revise the rules of practice to adjust the transmittal and search fees for international applications filed under the PCT. The Office is proposing to adjust the PCT transmittal and search fees to recover the estimated average cost to the Office of processing PCT international applications and preparing international search reports and written opinions for PCT international applications.

*2. Succinct statement of the objectives of, and legal basis for, the proposed rules:* The Office is proposing to adjust the PCT transmittal and search fees to recover the estimated average cost to the Office of processing PCT international applications and preparing international search reports and written opinions for PCT international applications. The

changes proposed in this notice are authorized by 35 U.S.C. 41(d) and 376.

*3. Description and estimate of the number of affected small entities:* The Small Business Administration (SBA) small business size standards applicable to most analyses conducted to comply with the Regulatory Flexibility Act are set forth in 13 CFR 121.201. These regulations generally define small businesses as those with fewer than a maximum number of employees or less than a specified level of annual receipts for the entity’s industrial sector or North American Industry Classification System code. The Office, however, has formally adopted an alternate size standard as the size standard for the purpose of conducting an analysis or making a certification under the Regulatory Flexibility Act for patent-related regulations. See *Business Size Standard for Purposes of United States Patent and Trademark Office Regulatory Flexibility Analysis for Patent-Related Regulations*, 71 FR 67109 (Nov. 20, 2006), 1313 *Off. Gaz. Pat. Office* 60 (Dec. 12, 2006). This alternate small business size standard is the previously established size standard that identifies the criteria entities must meet to be entitled to pay reduced patent fees. See 13 CFR 121.802. If patent applicants identify themselves on the patent application as qualifying for reduced patent fees, the Office captures this data in the Patent Application Location and Monitoring (PALM) database system, which tracks information on each patent application submitted to the Office.

Unlike the SBA small business size standards set forth in 13 CFR 121.201, this size standard is not industry-specific. Specifically, the Office’s definition of small business concern for Regulatory Flexibility Act purposes is a business or other concern that: (1) Meets the SBA’s definition of a “business concern or concern” set forth in 13 CFR 121.105; and (2) meets the size standards set forth in 13 CFR 121.802 for the purpose of paying reduced patent fees, namely an entity: (a) Whose number of employees, including affiliates, does not exceed 500 persons; and (b) which has not assigned, granted, conveyed, or licensed (and is under no obligation to do so) any rights in the invention to any person who made it and could not be classified as an independent inventor, or to any concern which would not qualify as a non-profit organization or a small business concern under this definition. See *Business Size Standard for Purposes of United States Patent and Trademark Office Regulatory Flexibility Analysis for Patent-Related Regulations*, 71 FR at 67112, 1313 *Off. Gaz. Pat. Office* at 63.

The changes in this proposed rule will apply to any small entity who files a PCT international application in the United States Receiving Office and who requests a search by the United States International Searching Authority. The Office received between 52,000 and 53,000 PCT international applications in each of fiscal years 2006 and 2007. There is no provision in 35 U.S.C. 376 (or elsewhere) for a small entity reduction for the transmittal or search fees for an international application. Thus, PCT applicants do not indicate and the Office does not record whether a PCT application is by a small entity or a non-small entity. The Office's PALM and Revenue Accounting and Management (RAM) systems indicate that 12,043 of the PCT international applications in fiscal year 2006 claim

priority to a prior application (nonprovisional or provisional) that has small entity status, and that 2,559 of the PCT international applications in fiscal year 2006 do not claim priority to any prior nonprovisional application or provisional application. The Office's PALM and RAM systems indicate that 12,716 of the PCT international applications in fiscal year 2007 claim priority to a prior application (nonprovisional or provisional) that has small entity status, and that 4,016 of the PCT international applications in fiscal year 2007 do not claim priority to any prior nonprovisional application or provisional application.

4. *Description of the projected reporting, recordkeeping and other compliance requirements of the proposed rules, including an estimate of*

*the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record:* This notice does not propose any reporting, recordkeeping and other compliance requirements. This notice proposes only to adjust the PCT transmittal and search fees. As discussed previously, there is no provision in 35 U.S.C. 376 (or elsewhere) for a small entity reduction for the search fees for an international application. The following table (Table 1) indicates the PCT international stage fee, the number of payments of the fee received by the Office in fiscal year 2007 (number of entities who paid the applicable fee in fiscal year 2007), the current fee amount, the proposed fee amount, and the net amount of the fee adjustment.

TABLE 1

Fee	Fiscal year 2007 payments	Current fee amount	Proposed fee amount	Fee adjustment
Transmittal Fee .....	\$54,335	\$300.00	\$415.00	\$115.00
Search Fee .....	30,965	1,800.00	2,225.00	425.00
Supplemental Search Fee .....	941	1,800.00	2,225.00	425.00

The PCT international search fee and supplemental search fee were adjusted from \$1,000.00 to \$1,800.00 in November of 2007. *See April 2007 Revision of Patent Cooperation Treaty Procedures*, 72 FR 51559 (Sept. 10, 2007), 1323 *Off. Gaz. Pat. Office* 26 (Oct. 2, 2007) (final rule). Thus, the change to the search and supplemental search fee proposed in this notice is a \$425.00 increase over the current search fee and supplemental search fee set in November of 2007, and a \$1,225.00 increase over the search fee and supplemental search fee that was in effect prior to November of 2007.

The PCT does not preclude United States applicants from filing patent applications directly in the patent offices of those countries which are Contracting States of the PCT (with or without previously having filed a regular national application under 35 U.S.C. 111(a) or 111(b) in the United States) and taking advantage of the priority rights and other advantages provided under the Paris Convention and the World Trade Organization (WTO) administered Agreement on Trade-Related Aspects of Intellectual Property (TRIPs Agreement). *See MPEP 1801*. That is, the PCT is not the exclusive mechanism for seeking patent protection in foreign countries, but is instead simply an optional alternative route available to United States patent applicants for seeking patent protection

in those countries that are Contracting States of the PCT. *See id.*

In addition, an applicant filing an international application under the PCT in the United States Receiving Office (the United States Patent and Trademark Office) is not required to use the United States Patent and Trademark Office as the International Searching Authority. The European Patent Office (except for applications containing business method claims) or the Korean Intellectual Property Office may be selected as the International Searching Authority for international applications filed in the United States Receiving Office. The applicable search fee if the European Patent Office is selected as the International Searching Authority is currently \$2,496.00 (set by the European Patent Office), and the applicable search fee if the Korean Intellectual Property Office is selected as the International Searching Authority is currently \$244.00 (set by the Korean Intellectual Property Office).

5. *Description of any significant alternatives to the proposed rules which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rules on small entities:* The alternative of not adjusting the PCT transmittal and search fees would have a lesser economic impact on small entities, but would not accomplish the stated objectives of applicable statutes.

*See 35 U.S.C. 41(d)* (requires that fees set by the Office recover the estimated average cost to the Office of the processing, services, or materials).

6. *Identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap or conflict with the proposed rules:* The Office is the sole agency of the United States Government responsible for administering the provisions of title 35, United States Code, pertaining to examination and granting patents. Therefore, no other federal, state, or local entity shares jurisdiction over the examination and granting of patents.

The Office previously proposed changes to adjust the patent fees set by statute to reflect fluctuations in the Consumer Price Index (CPI). *See Revision of Patent Fees for Fiscal Year 2009*, 73 FR 31655 (June 3, 2008) (proposed rule). The changes proposed in that rule making do not duplicate, overlap, or conflict with the changes proposed in this notice.

Other countries, however, have their own patent laws, and an entity desiring a patent in a particular country must make an application for patent in that country, in accordance with the applicable law. Although the potential for overlap exists internationally, this cannot be avoided except by treaty (such as the Paris Convention for the Protection of Industrial Property, or the PCT). Nevertheless, the Office believes

that there are no other duplicative or overlapping rules.

**B. Executive Order 13132 (Federalism):** This rule making does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

**C. Executive Order 12866 (Regulatory Planning and Review):** This rule making has been determined to be significant for purposes of Executive Order 12866 (Sept. 30, 1993), as amended by Executive Order 13258 (Feb. 26, 2002) and Executive Order 13422 (Jan. 18, 2007).

**D. Executive Order 13175 (Tribal Consultation):** This rule making will not: (1) Have substantial direct effects on one or more Indian tribes; (2) impose substantial direct compliance costs on Indian tribal governments; or (3) preempt tribal law. Therefore, a tribal summary impact statement is not required under Executive Order 13175 (Nov. 6, 2000).

**E. Executive Order 13211 (Energy Effects):** This rule making is not a significant energy action under Executive Order 13211 because this rule making is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required under Executive Order 13211 (May 18, 2001).

**F. Executive Order 12988 (Civil Justice Reform):** This rule making meets applicable standards to minimize litigation, eliminate ambiguity, and reduce burden as set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Feb. 5, 1996).

**G. Executive Order 13045 (Protection of Children):** This rule making is not an economically significant rule and does not concern an environmental risk to health or safety that may disproportionately affect children under Executive Order 13045 (Apr. 21, 1997).

**H. Executive Order 12630 (Taking of Private Property):** This rule making will not effect a taking of private property or otherwise have taking implications under Executive Order 12630 (Mar. 15, 1988).

**I. Congressional Review Act:** Under the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), prior to issuing any final rule, the United States Patent and Trademark Office will submit a report containing the final rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the Government

Accountability Office. The changes proposed in this notice are not expected to result in an annual effect on the economy of 100 million dollars or more, a major increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, this rule making is not likely to result in a "major rule" as defined in 5 U.S.C. 804(2).

**J. Unfunded Mandates Reform Act of 1995:** The changes proposed in this notice do not involve a Federal intergovernmental mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, of 100 million dollars (as adjusted) or more in any one year, or a Federal private sector mandate that will result in the expenditure by the private sector of 100 million dollars (as adjusted) or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995. *See* 2 U.S.C. 1501 *et seq.*

**K. National Environmental Policy Act:** This rule making will not have any effect on the quality of environment and is thus categorically excluded from review under the National Environmental Policy Act of 1969. *See* 42 U.S.C. 4321 *et seq.*

**L. National Technology Transfer and Advancement Act:** The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) are inapplicable because this rule making does not contain provisions which involve the use of technical standards.

**M. Paperwork Reduction Act:** The changes proposed in this notice involve information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collection of information involved in this notice has been reviewed and approved by OMB under OMB control number 0651-0021. The Office is not resubmitting an information collection package to OMB for its review and approval because the changes proposed in this notice concern revised fees for existing information collection requirements associated with the information collection under OMB control number 0651-0021. The Office will submit fee revision changes to the inventory of the information collection under OMB control number 0651-0021

if the changes proposed in this notice are adopted.

**Comments are invited on:** (1) Whether the collection of information is necessary for proper performance of the functions of the agency; (2) the accuracy of the agency's estimate of the burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information to respondents.

Interested persons are requested to send comments regarding these information collections, including suggestions for reducing this burden, to: (1) The Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10202, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Officer for the Patent and Trademark Office; and (2) Robert A. Clarke, Director, Office of Patent Legal Administration, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

#### List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of Information, Inventions and patents, Reporting and record keeping requirements, Small Businesses.

Accordingly, the Office proposes to amend 37 CFR part 1 as follows:

#### 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. 2(b)(2).

2. Subpart C of 37 CFR part 1 is amended immediately before the undesignated center heading "General Information" to include the following authority citation:

**Authority:** Sections 1.401 through 1.499 also issued under 35 U.S.C. 351 through 376.

3. Section 1.445 is amended by revising paragraphs (a)(1), (a)(2) and (a)(3) to read as follows:

#### § 1.445 International application filing, processing and search fees.

(a) \* \* \*

(1) A transmittal fee (see 35 U.S.C. 361(d) and PCT Rule 14) .....	\$415.00
(2) A search fee (see 35 U.S.C. 361(d) and PCT Rule 16) .....	2,225.00
(3) A supplemental search fee when required, per additional invention .....	\$.225.00
* * * * *	

Dated: June 12, 2008.

**Jon W. Dudas,**

*Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.*

[FR Doc. E8-13730 Filed 6-17-08; 8:45 am]

**BILLING CODE 3510-16-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 82

[EPA-HQ-OAR-2008-0231; FRL-8582-7]

RIN 2060-AP18

### Protection of Stratospheric Ozone: Revision of Refrigerant Recovery Only Equipment Standards

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to update motor vehicle refrigerant recovery only equipment standards. Under Clean Air Act Section 609, motor vehicle air-conditioning (MVAC) refrigerant handling equipment must be certified by the Administrator or an independent organization approved by the Administrator and, at a minimum, must be as stringent as the standards of the Society of Automotive Engineers (SAE) in effect as of the date of the enactment of the Clean Air Act Amendments of 1990. In 1997, EPA promulgated regulations that required the use of SAE Standard J1732, HFC-134a Recycling Equipment for Mobile Air Conditioning Systems for certification of MVAC refrigerant handling equipment. SAE has replaced Standard J1732 with J2810, HFC-134a Refrigerant Recovery Equipment for Mobile Air Conditioning Systems. EPA is updating its reference to the new SAE standard for MVAC refrigerant recovery equipment used for MVAC servicing and MVAC disposal. This action reflects a change in industry standard practice.

**DATES:** Written comments must be received by July 18, 2008. If anyone contacts us requesting a public hearing by June 30, 2008, the hearing will be held on July 3, 2008. If a public hearing

is requested, the record for this action will remain open until August 4, 2008 to accommodate submittal of information related to the public hearing. For additional information on the public hearing, see the **SUPPLEMENTARY INFORMATION** section of this document.

**ADDRESSES:** Submit your comments, identified by Docket ID No EPA-HQ-OAR-2008-0231, by mail to Environmental Protection Agency, Mailcode 6102T, EPA Docket Center (EPA/DC), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:**

Karen Thundiyil, Stratospheric Protection Division, Office of Atmospheric Programs (MC 6205J), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 343-9464; fax number (202) 343-2363; e-mail address: *thundiyil.karen@epa.gov*.

**SUPPLEMENTARY INFORMATION:** In the “Rules and Regulations” section of this **Federal Register**, we are updating the existing motor vehicle refrigerant recovery only equipment standards, as a direct final rule without a prior proposed rule. If we receive no adverse comment, we will not take further action on this proposed rule. If a public hearing is held, it will be at EPA Headquarters in Washington, DC.

#### I. Why Is EPA Issuing This Proposed Rule?

This document proposes to take action on motor vehicle air-conditioning refrigerant recovery only equipment standards. We have published a direct final rule updating EPA’s motor vehicle refrigerant recovery only equipment standards in the “Rules and Regulations” section of this **Federal Register** because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the direct final rule and are not repeating those here.

If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the direct final rule and it will not take effect. We would address all public comments in any subsequent final rule based on this proposed rule. We do not intend to institute a second comment period on

this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the **ADDRESSES** section of this document.

## II. Statutory and Executive Order Reviews

### A. Executive Order 12866: Regulatory Planning and Review

This action is not a “significant regulatory action” under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the EO.

### B. Paperwork Reduction Act

This action does not impose any new information collection burden. The recordkeeping and reporting requirements included in this action are already included in an existing information collection burden. This action does not make any changes that would affect burden. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations, 40 CFR part 82, under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. and has assigned OMB control number 2060-0247. The OMB control numbers for EPA’s regulations in 40 CFR are listed in 40 CFR part 9.

### C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this proposed rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration’s (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this proposed rule on small entities, we certify that this action will not have a significant economic impact