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Dated: June 16, 2011.

**Mark S. Ogle,***Captain, U.S. Coast Guard, Captain of the Port Hampton Roads.*

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**DEPARTMENT OF COMMERCE****United States Patent and Trademark Office****37 CFR Parts 1 and 41**

[PTO-C-2010-0019]

RIN 0651-AC44

**Revision of Patent Fees for Fiscal Year 2012****AGENCY:** United States Patent and Trademark Office, Commerce.**ACTION:** Proposed rule.

**SUMMARY:** The United States Patent and Trademark Office (Office) is proposing to adjust certain patent fee amounts for fiscal year 2012 to reflect fluctuations in the Consumer Price Index (CPI). The patent statute provides for the annual CPI adjustment of patent fees set by statute to recover the higher costs associated with doing business.

**DATES:** Written comments must be received on or before July 27, 2011. No public hearing will be held.

**ADDRESSES:** You may submit comments, identified by RIN number RIN 0651-AC44, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *E-mail:*

*Walter.Schlueter@uspto.gov*. Include RIN number RIN 0651-AC44 in the subject line of the message.

- *Fax:* (571) 273-6299, marked to the attention of Walter Schlueter.

- *Mail:* Director of the United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450, marked to the attention of Walter Schlueter.

**Instructions:** All submissions received must include the agency name and Regulatory Information Number (RIN) for this proposed rule making. For additional information on the rule making process, see the heading of the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:**

Walter Schlueter by e-mail at *Walter.Schlueter@uspto.gov*, by telephone at (571) 272-6299, or by fax at (571) 273-6299.

**SUPPLEMENTARY INFORMATION:** The USPTO is proposing to adjust certain patent fees in accordance with the applicable provisions of title 35, United States Code, as amended by the Consolidated Appropriations Act (Pub. L. 108-447, 118 Stat. 2809 (2004)).

**Background: Statutory Provisions:**

Patent fees are set by or under the authority provided in 35 U.S.C. 41, 119, 120, 132(b), 156, 157(a), 255, 302, 311, 376, section 532(a)(2) of the Uruguay Round Agreements Act (URAA) (Pub. L. 103-465, § 532(a)(2), 108 Stat. 4809, 4985 (1994)), and section 4506 of the American Inventors Protection Act of 1999 (AIPA) (Pub. L. 106-113, 113 Stat. 1501, 1501A-565 (1999)). For fees paid under 35 U.S.C. 41(a) and (b) and 132(b), independent inventors, small business concerns, and nonprofit organizations who meet the requirements of 35 U.S.C. 41(h)(1) are entitled to a fifty-percent reduction.

Section 41(f) of title 35, United States Code, provides that fees established under 35 U.S.C. 41(a) and (b) may be adjusted on October 1, 1992, and every year thereafter, to reflect fluctuations in the CPI over the previous twelve months.

Section 41(g) of title 35, United States Code, provides that new fee amounts established by the Director under 35 U.S.C. 41 may take effect thirty days after notice in the **Federal Register** and the *Official Gazette of the United States Patent and Trademark Office*.

The fiscal year 2005 Consolidated Appropriations Act (section 801 of Division B) provided that 35 U.S.C. 41(a), (b), and (d) shall be administered in a manner that revises patent application fees (35 U.S.C. 41(a)) and patent maintenance fees (35 U.S.C. 41(b)), and provides for a separate filing fee (35 U.S.C. 41(a)), search fee (35 U.S.C. 41(d)(1)), and examination fee (35 U.S.C. 41(a)(3)) during fiscal years 2005 and 2006. *See* Pub. L. 108-447, 118 Stat. 2809, 2924-30 (2004). The patent and trademark fee provisions of the fiscal year 2005 Consolidated Appropriations Act have been extended through September 30, 2011, via the Omnibus Appropriations Act, 2009. *See* Pub. L. 112-4, 125 Stat. 6 (2011); Pub. L. 111-322, 124 Stat. 3518 (2010); Pub. L. 111-317, 124 Stat. 3454 (2010); Pub. L. 111-290, 124 Stat. 3063 (2010); Pub. L. 111-242, 124 Stat. 2607 (2010); Pub. L. 111-224, 124 Stat. 2385 (2010); Pub. L. 111-117, 123 Stat. 3034 (2009); Pub. L. 111-8, 123 Stat. 524 (2009); Pub. L. 111-6, 123 Stat. 522 (2009); Pub. L. 111-5, 123 Stat. 115 (2009); Pub. L. 110-329, 122 Stat. 3574 (2008); Pub. L. 110-161, 121 Stat. 1844 (2007); Pub. L. 110-149, 121 Stat. 1819 (2007); Pub. L.

110-137, 121 Stat. 1454 (2007); Pub. L. 110-116, 121 Stat. 1295 (2007); Pub. L. 110-92, 121 Stat. 989 (2007); Pub. L. 110-5, 121 Stat. 8 (2007); Pub. L. 109-383, 120 Stat. 2678 (2006); Pub. L. 109-369, 120 Stat. 2642 (2006); and Pub. L. 109-289, 120 Stat. 1257 (2006). The USPTO anticipates the enactment of legislation that would extend the patent and trademark fee provisions of the fiscal year 2005 Consolidated Appropriations Act through fiscal year 2012.

**Fee Adjustment Level:** The patent statutory fees established by 35 U.S.C. 41(a) and (b) are proposed to be adjusted to reflect the most recent fluctuations occurring during the twelve-month period prior to publication of the final rule, as measured by the *Consumer Price Index for All Urban Consumers* (CPI-U). The Office of Management and Budget (OMB) has advised that in calculating these fluctuations, the USPTO should use CPI-U data as determined by the Secretary of Labor.

In accordance with previous fee-setting methodology, the USPTO proposes to adjust patent statutory fee amounts based on the most recent annual increase in the CPI-U, as reported by the Secretary of Labor, at the time the final rule is implemented. Proposed adjusted fee amounts are not included in this proposed rule in order to avoid confusion that could arise from using projected increases in the proposed rule that may not end up matching actual increases at the time of the final rule. Annual increases to the CPI-U are published monthly, and before the final fee amounts are published, the fee amounts may be adjusted based on actual fluctuations in the CPI-U. Adjusted patent statutory fee amounts based on the most recent annual increase in the CPI-U, as reported by the Secretary of Labor, will be published in a final rules notice.

The fee amounts will be rounded by applying standard arithmetic rules so that the amounts rounded will be convenient to the user. Fees for other than a small entity of \$100 or more will be rounded to the nearest \$10. Fees of less than \$100 will be rounded to an even number so that any comparable small entity fee will be a whole number.

**General Procedures:** Any fee amount that is paid on or after the effective date of the proposed fee adjustment would be subject to the new fees then in effect. The amount of the fee to be paid will be determined by the time of filing. The time of filing will be determined either according to the date of receipt in the Office (37 CFR 1.6) or the date reflected on a proper Certificate of Mailing or

Transmission, where such a certificate is authorized under 37 CFR 1.8. Use of a Certificate of Mailing or Transmission is not authorized for items that are specifically excluded from the provisions of 37 CFR 1.8. Items for which a Certificate of Mailing or Transmission under 37 CFR 1.8 is not authorized include, for example, filing of national and international applications for patents. See 37 CFR 1.8(a)(2).

Patent-related correspondence delivered by the “Express Mail Post Office to Addressee” service of the United States Postal Service (USPS) is considered filed or received in the USPTO on the date of deposit with the USPS. See 37 CFR 1.10(a)(1). The date of deposit with the USPS is shown by the “date-in” on the “Express Mail” mailing label or other official USPS notation.

To ensure clarity in the implementation of the proposed new

fees, a discussion of specific sections is set forth below.

**Discussion of Specific Rules**

*37 CFR 1.16 National application filing, and examination fees:* Section 1.16, paragraphs (a) through (e), (h) through (j) and (o) through (s), if revised as proposed, would adjust fees established therein to reflect fluctuations in the CPI-U.

*37 CFR 1.17 Patent application and reexamination processing fees:* Section 1.17, paragraphs (a)(1) through (a)(5), (l), and (m), if revised as proposed, would adjust fees established therein to reflect fluctuations in the CPI-U.

*37 CFR 1.18 Patent post allowance (including issue) fees:* Section 1.18, paragraphs (a) through (c), if revised as proposed, would adjust fees established therein to reflect fluctuations in the CPI-U.

*37 CFR 1.20 Post issuance fees:* Section 1.20, paragraphs (c)(3)–(c)(4),

and (d) through (g), if revised as proposed, would adjust fees established therein to reflect fluctuations in the CPI-U.

*37 CFR 1.492 National stage fees:* Section 1.492, paragraphs (a), (c)(2), (d) through (f) and (j), if revised as proposed, would adjust fees established therein to reflect fluctuations in the CPI-U.

*37 CFR 41.20 Fees:* Section 41.20, paragraphs (b)(1) through (b)(3), if revised as proposed, would adjust fees established therein to reflect fluctuations in the CPI-U.

*Example of Fee Amount Adjustments:* Adjusted patent statutory fee amounts based on the most recent annual increase in the CPI-U, as reported by the Secretary of Labor, will be published in a final rules notice. Table 1 provides examples of possible fee adjustments based on the February 2010 to February 2011 annual CPI-U increase of 2.3%.

TABLE 1

37 CFR	Title	Current fee amount	Fee amount (2.3% increase)	Fee adjustment
1.16(a)(1) .....	Filing of Utility Patent Application (on or after 12/8/2004) ..	\$330, (SE) \$165 ....	\$340, (SE) \$170 ....	\$10, (SE) \$5.
1.16(a)(1) .....	Filing of Utility Patent Application (electronic filing for small entities)(on or after 12/8/2004).	\$82 .....	\$84 .....	\$2.
1.16(a)(2) .....	Utility Application Filing (before 12/8/2004) .....	\$850, (SE) \$425 ....	\$870, (SE) \$435 ....	\$20, (SE) \$10.
1.16(b)(1) .....	Filing of Design Patent Application (on or after 12/8/2004)	\$220, (SE) \$110 ....	\$230, (SE) \$115 ....	\$10, (SE) \$5.
1.16(b)(1) .....	Filing of Design Patent Application (CPA) (on or after 12/8/2004).	\$220, (SE) \$110 ....	\$230, (SE) \$115 ....	\$10, (SE) \$5.
1.16(b)(2) .....	Design Application Filing (before 12/8/2004) .....	\$380, (SE) \$190 ....	\$390, (SE) \$195 ....	\$10, (SE) \$5.
1.16(b)(2) .....	Design Application Filing (CPA) (before 12/8/2004) .....	\$380, (SE) \$190 ....	\$390, (SE) \$195 ....	\$10, (SE) \$5.
1.16(c)(1) .....	Filing of Plant Patent Application (on or after 12/8/2004) ...	\$220, (SE) \$110 ....	\$230, (SE) \$115 ....	\$10, (SE) \$5.
1.16(c)(2) .....	Plant Application Filing (before 12/8/2004) .....	\$600, (SE) \$300 ....	\$610, (SE) \$305 ....	\$10, (SE) \$5.
1.16(d) .....	Provisional Application Filing .....	\$220, (SE) \$110 ....	\$230, (SE) \$115 ....	\$10, (SE) \$5.
1.16(e)(1) .....	Filing of Reissue Patent Application (on or after 12/8/2004).	\$330, (SE) \$165 ....	\$340, (SE) \$170 ....	\$10, (SE) \$5.
1.16(e)(1) .....	Filing of Reissue Patent Application (CPA) (on or after 12/8/2004).	\$330, (SE) \$165 ....	\$340, (SE) \$170 ....	\$10, (SE) \$5.
1.16(e)(2) .....	Reissue Application Filing (before 12/8/2004) .....	\$850, (SE) \$425 ....	\$870, (SE) \$435 ....	\$20, (SE) \$10.
1.16(e)(2) .....	Reissue Application Filing (CPA) (before 12/8/2004) .....	\$850, (SE) \$425 ....	\$870, (SE) \$435 ....	\$20, (SE) \$10.
1.16(h) .....	Independent Claims in Excess of Three .....	\$220, (SE) \$110 ....	\$230, (SE) \$115 ....	\$10, (SE) \$5.
1.16(h) .....	Reissue Independent Claims in Excess of Three .....	\$220, (SE) \$110 ....	\$230, (SE) \$115 ....	\$10, (SE) \$5.
1.16(i) .....	Claims in Excess of Twenty .....	\$52, (SE) \$26 .....	\$52, (SE) \$26 .....	\$0, (SE) \$0.
1.16(i) .....	Reissue Total Claims in Excess of Twenty .....	\$52, (SE) \$26 .....	\$52, (SE) \$26 .....	\$0, (SE) \$0.
1.16(j) .....	Multiple Dependent Claims .....	\$390, (SE) \$195 ....	\$400, (SE) \$200 ....	\$10, (SE) \$5.
1.16(o) .....	Utility Patent Examination .....	\$220, (SE) \$110 ....	\$230, (SE) \$115 ....	\$10, (SE) \$5.
1.16(p) .....	Design Patent Examination .....	\$140, (SE) \$70 .....	\$140, (SE) \$70 .....	\$0, (SE) \$0.
1.16(q) .....	Plant Patent Examination .....	\$170, (SE) \$85 .....	\$170, (SE) \$85 .....	\$0, (SE) \$0.
1.16(r) .....	Reissue Patent Examination .....	\$650, (SE) \$325 ....	\$660, (SE) \$330 ....	\$10, (SE) \$5.
1.16(s) .....	Utility Application Size Fee—For each additional 50 sheets that exceeds 100 sheets.	\$270, (SE) \$135 ....	\$280, (SE) \$140 ....	\$10, (SE) \$5.
1.16(s) .....	Design Application Size Fee—For each additional 50 sheets that exceeds 100 sheets.	\$270, (SE) \$135 ....	\$280, (SE) \$140 ....	\$10, (SE) \$5.
1.16(s) .....	Plant Application Size Fee—For each additional 50 sheets that exceeds 100 sheets.	\$270, (SE) \$135 ....	\$280, (SE) \$140 ....	\$10, (SE) \$5.
1.16(s) .....	Reissue Application Size Fee—For each additional 50 sheets that exceeds 100 sheets.	\$270, (SE) \$135 ....	\$280, (SE) \$140 ....	\$10, (SE) \$5.
1.16(s) .....	Provisional Application Size Fee—For each additional 50 sheets that exceeds 100 sheets.	\$270, (SE) \$135 ....	\$280, (SE) \$140 ....	\$10, (SE) \$5.
1.17(a)(1) .....	Extension for Response within First Month .....	\$130, (SE) \$65 .....	\$130, (SE) \$65 .....	\$0, (SE) \$0.
1.17(a)(2) .....	Extension for Response within Second Month .....	\$490, (SE) \$245 ....	\$500, (SE) \$250 ....	\$10, (SE) \$5.
1.17(a)(3) .....	Extension for Response within Third Month .....	\$1,110, (SE) \$555 ....	\$1,120, (SE) \$560 ....	\$10, (SE) \$5.
1.17(a)(4) .....	Extension for Response within Fourth Month .....	\$1,730, (SE) \$865 ....	\$1,740, (SE) \$870 ....	\$10, (SE) \$5.
1.17(a)(5) .....	Extension for Response within Fifth Month .....	\$2,350, (SE) \$1,175 ....	\$2,360, (SE) \$1,180 ....	\$10, (SE) \$5.
1.17(l) .....	Petition to Revive Unavoidably Abandoned Application .....	\$540, (SE) \$270 ....	\$550, (SE) \$275 ....	\$10, (SE) \$5.

TABLE 1—Continued

37 CFR	Title	Current fee amount	Fee amount (2.3% increase)	Fee adjustment
1.17(m)	Petition to Revive Unintentionally Abandoned Application	\$1,620, (SE) \$810	\$1,660, (SE) \$830	\$40, (SE) \$20.
1.18(a)	Utility Issue	\$1,510, (SE) \$755	\$1,540, (SE) \$770	\$30, (SE) \$15.
1.18(a)	Reissue Issue	\$1,510, (SE) \$755	\$1,540, (SE) \$770	\$30, (SE) \$15.
1.18(b)	Design Issue	\$860, (SE) \$430	\$880, (SE) \$440	\$20, (SE) \$10.
1.18(c)	Plant Issue	\$1,190, (SE) \$595	\$1,220, (SE) \$610	\$30, (SE) \$15.
1.20(c)(3)	Reexamination Independent Claims in Excess of Three	\$220, (SE) \$110	\$230, (SE) \$115	\$10, (SE) \$5.
1.20(c)(4)	Reexamination Total Claims in Excess of Twenty	\$52, (SE) \$26	\$52, (SE) \$26	\$0, (SE) \$0.
1.20(d)	Statutory Disclaimer	\$140, (SE) \$70	\$140, (SE) \$70	\$0, (SE) \$0.
1.20(e)	First Stage Maintenance	\$980, (SE) \$490	\$1,000, (SE) \$500	\$20, (SE) \$10.
1.20(f)	Second Stage Maintenance	\$2,480, (SE) \$1,240	\$2,540, (SE) \$1,270	\$60, (SE) \$30.
1.20(g)	Third Stage Maintenance	\$4,110, (SE) \$2,055	\$4,200, (SE) \$2,100	\$90, (SE) \$45.
1.492(a)	Filing of PCT National Stage Application	\$330, (SE) \$165	\$340, (SE) \$170	\$10, (SE) \$5.
1.492(c)(2)	PCT National Stage Examination—All Other Situations	\$220, (SE) \$110	\$230, (SE) \$115	\$10, (SE) \$5.
1.492(d)	Independent Claims in Excess of Three	\$220, (SE) \$110	\$230, (SE) \$115	\$10, (SE) \$5.
1.492(e)	Total Claims in Excess of Twenty	\$52, (SE) \$26	\$52, (SE) \$26	\$0, (SE) \$0.
1.492(f)	Multiple Dependent Claims	\$390, (SE) \$195	\$400, (SE) \$200	\$10, (SE) \$5.
1.492(j)	PCT National Stage Application Size Fee	\$270, (SE) \$135	\$280, (SE) \$140	\$10, (SE) \$5.
41.20(b)(1)	Notice of Appeal	\$540, (SE) \$270	\$550, (SE) \$275	\$10, (SE) \$5.
41.20(b)(2)	Filing a Brief in Support of an Appeal	\$540, (SE) \$270	\$550, (SE) \$275	\$10, (SE) \$5.
41.20(b)(3)	Request for Oral Hearing	\$1,080, (SE) \$540	\$1,100, (SE) \$550	\$20, (SE) \$10.

**Rulemaking Considerations**

*Initial Regulatory Flexibility Analysis:*

1. *Description of the reasons that action by the agency is being considered:* The USPTO is proposing to adjust the patent fees set under 35 U.S.C. 41(a) and (b) to ensure proper funding for effective operations. The patent fee CPI adjustment is a routine adjustment that has generally occurred on an annual basis when necessary to recover the higher costs of USPTO operations that occur due to the increase in the price of products and services.

2. *Succinct statement of the objectives of, and legal basis for, the proposed rules:* The objective of the proposed change is to adjust patent fees set under 35 U.S.C. 41(a) and (b) to recover the higher costs of USPTO operations. Patent fees are set by or under the authority provided in 35 U.S.C. 41, 119, 120, 132(b), 156, 157(a), 255, 302, 311, 376, section 532(a)(2) of the URAA, and 4506 of the AIPA. 35 U.S.C. 41(f) provides that fees established under 35 U.S.C. 41(a) and (b) may be adjusted every year to reflect fluctuations in the CPI over the previous twelve months.

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 (NAICS) code. The USPTO,

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 USPTO captures this data in the Patent Application Location and Monitoring (PALM) database system, which tracks information on each patent application submitted to the USPTO.

Unlike the SBA small business size standards set forth in 13 CFR 121.201, this size standard is not industry-specific. Specifically, the USPTO 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 (November 20, 2006), 1313 *Off. Gaz. Pat. Office* at 63 (December 12, 2006).

The changes in this proposed rule will apply to any small entity that files a patent application, or has a pending patent application or unexpired patent. The changes in this proposed rule will specifically apply when an applicant or patentee pays an application filing or national stage entry fee, search fee, examination fee, extension of time fee, notice of appeal fee, appeal brief fee, request for an oral hearing fee, petition to revive fee, issue fee, or patent maintenance fee.

The USPTO has been advised that a number of small entity applicants and patentees do not claim small entity status for various reasons. See *Business Size Standard for Purposes of United States Patent and Trademark Office Regulatory Flexibility Analysis for Patent-Related Regulations*, 71 FR at 67110 (November 20, 2006), 1313 *Off. Gaz. Pat. Office* at 61 (December 12, 2006). Therefore, the USPTO is also considering all other entities paying patent fees as well.

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 patent fees (as discussed previously) to reflect changes in the CPI.

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 patent fees would have a lesser economic impact on small entities, but would not accomplish the stated objectives of applicable statutes. The USPTO is proposing to adjust the patent fees to ensure proper funding for effective operations. The patent fee CPI adjustment is a routine adjustment that has generally occurred on an annual basis to recover the higher costs of USPTO operations that occur due to the increase in the price of products and services and to recover the estimated cost to the USPTO for processing activities and services and materials relating to patents and trademarks, respectively, including proportionate shares of the administrative costs of the USPTO. The lack of proper funding for effective operations would result in a significant increase in patent pendency levels.

6. *Identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap or conflict with the proposed rules:* The USPTO 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.

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 Patent Cooperation Treaty (PCT)). Nevertheless, the USPTO 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 13563 (Improving Regulation and Regulatory Review):* The Office has complied with Executive Order 13563 (Jan. 8, 2011). Specifically, the Office has: (1) Used the best available techniques to quantify costs and benefits, and has considered values such as equity, fairness and distributive impacts; (2) provided the public with a meaningful opportunity to participate in the regulatory process, including soliciting the views of those likely affected, by issuing this notice of proposed rule making and providing on-line access to the rule making docket; (3) attempted to promote coordination, simplification and harmonization across government agencies and identified goals designed to promote innovation; (4) considered approaches that reduce burdens and maintain flexibility and freedom of choice for the public; and (5) ensured the objectivity of scientific and technological information and processes, to the extent applicable.

E. *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).

F. *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).

G. *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).

H. *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).

I. *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).

J. *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 USPTO 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).

K. *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.*

L. *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.*

M. *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.

N. *Paperwork Reduction Act:* This proposed rule involves 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 collections of information involved in this proposed rule have been reviewed and approved by OMB. The Office is not resubmitting information collection requests to OMB for its review and approval at this time because the changes proposed in this notice revise the fees for existing information collection requirements under OMB control numbers 0651-0016, 0651-0021, 0651-0024, 0651-0031, 0651-0032, 0651-0033, 0651-0063 and 0651-0064. The USPTO will submit to OMB fee revision changes for the OMB control numbers 0651-0016, 0651-0021, 0651-0024, 0651-0031, 0651-0032, 0651-0033, 0651-0063 and 0651-0064 if the changes proposed in this notice are adopted.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

#### List of Subjects

##### 37 CFR Part 1

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

##### 37 CFR Part 41

Administrative practice and procedure, Inventions and patents, Lawyers.

Dated: June 8, 2011.

**David J. Kappos,**

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

[FR Doc. 2011-16001 Filed 6-24-11; 8:45 am]

**BILLING CODE P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2010-0973; FRL-9319-3]

#### Approval and Promulgation of Air Quality Implementation Plans; Illinois; Royal Fiberglass Pools, Inc. Adjusted Standard

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve into the Illinois State Implementation Plan (SIP) an adjusted standard for Royal Fiberglass Pools ("Royal") at its Dix, Illinois facility. On November 8,

2010, the Illinois Environmental Protection Agency (IEPA) submitted to EPA for approval an adjustment to the general rule, Use of Organic Material Rule, commonly known as the eight pound per hour (8 lb/hr) rule, as it applies to emissions of volatile organic matter (VOM) from Royal's pool manufacturing facility. The adjusted standard relieves Royal from being subject to the general rule for VOM emissions from its Dix facility. EPA is approving this SIP revision because it will not interfere with attainment or maintenance of the ozone National Ambient Air Quality Standard (NAAQS).

**DATES:** Comments must be received on or before July 27, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2010-0545, by one of the following methods:

1. *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.

2. *E-mail*: [aburano.douglas@epa.gov](mailto:aburano.douglas@epa.gov)

3. *Fax*: (312) 408-2279.

4. *Mail*: Doug Aburano, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery*: Doug Aburano, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Please see the direct final rule which is located in the Final Rules section of this **Federal Register** for detailed instructions on how to submit comments.

#### FOR FURTHER INFORMATION CONTACT:

Carolyn Persoon, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8290, [persoon.carolyn@epa.gov](mailto:persoon.carolyn@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the Final Rules section of this **Federal Register**, EPA is approving the state's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse

comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: June 3, 2011.

**Susan Hedman,**

*Regional Administrator, Region 5.*

[FR Doc. 2011-15868 Filed 6-24-11; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 98

[EPA-HQ-OAR-2011-0417; FRL-9323-3]

RIN 2060-AP99

#### Mandatory Reporting of Greenhouse Gases: Petroleum and Natural Gas Systems: Revisions to Best Available Monitoring Method Provisions

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to amend certain provisions related to best available monitoring methods in regulations for Petroleum and Natural Gas Systems of the Greenhouse Gas Reporting Rule. Specifically, EPA is proposing to extend the time period during which owners and operators of covered facilities would be permitted to use best available monitoring methods during 2011 without submitting a request to the Administrator for approval. In addition, EPA is proposing to expand the list of types of emissions sources for which owners and operators would not be required to submit a request to the Administrator to use best available monitoring methods for 2011 and extend the deadline by which owners and operators of covered facilities would request use of best