

environmental impact from this proposed rule.

#### List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recording requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

#### PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233.

■ 2. Add § 100.35T01–0407 to read as follows:

##### § 100.35T01–0407 Special Local Regulation; Great Race On The Sea, Powerboat Race, Atlantic Ocean, Long Beach, NY.

(a) *Regulated Areas.* All coordinates are North American Datum 1983 (NAD 83).

(1) “*Race Course Area*”: All navigable waters of the Atlantic Ocean off Long Beach, NY within the following boundaries: Beginning at point “A” at position 40°34′15.84” N, 073°36′03.82” W, then west to point “B” at position 40°34′06.68” N, 073°40′09.27” W, then north to point “C” at position 40°34′48.56” N, 073°40′08.70” W, then east to point “D” at position 40°34′53.33” N, 073°36′14.93” W, then south to the point of origin, point “A”.

(2) “*No Entry Area*”: A buffer zone comprising all navigable waters of the Atlantic Ocean surrounding the “*Race Course Area*” and extending from the south border 700 feet outwards, from the east and west borders 1000 feet outwards and from the north border extending to the shoreline.

(3) “*Spectator Viewing Area*”: All navigable waters of the Atlantic Ocean off Long Beach, NY within the following boundaries: Beginning at point “A” at position 40°34′00.59” N, 073°35′53.34” W, then west to point “B” at position 40°33′54.27” N, 073°38′33.75” W, then north to point “C” at position 40°34′03.29” N, 073°38′34.11” W, then east to point “D” at position 40°34′09.15” N, 073°35′56.24” W, then south to the point of origin, point “A”.

(b) *Special Local Regulations.*

(1) In accordance with the general regulations found in section 100.35 of this part, entering into, transiting through, anchoring or remaining within the regulated areas is prohibited unless authorized by the Captain of the Port (COTP) Sector Long Island Sound, or designated representative.

(2) The following persons and vessels are authorized by the COTP Sector Long Island Sound to enter areas of this special local regulation:

(i) “*Race Course Area*”: Registered event participants, safety, support, and official vessels.

(ii) “*No Entry Area*”:

(A) Registered regatta participants, safety, support, and official vessels may transit to or from the “*Race Course Area*” at a speed of 25 knots or less when racing is halted.

(B) Swimmers may utilize all shoreline waters up to 100 feet from shore (i.e. end of the jetties).

(iii) “*Spectator Viewing Area*”: Spectator vessels engaged in viewing the powerboat race.

(3) All persons and vessels shall comply with the instructions of the COTP Sector Long Island Sound or designated representative. These designated representatives are comprised of commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing lights, or other means the operator of a vessel shall proceed as directed.

(4) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated areas must contact the COTP Sector Long Island Sound by telephone at (203) 468–4401, or designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated areas is granted by the COTP Sector Long Island Sound or designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP Sector Long Island Sound or designated representative.

(5) The Coast Guard will provide notice of the regulated areas prior to the event through appropriate means, which may include but is not limited to, the Local Notice to Mariners and Broadcast Notice to Mariners.

(c) *Definitions.* The following definitions apply to this section:

(1) *Designated Representative.* A “designated representative” is any commissioned, warrant, or petty officer of the U.S. Coast Guard who has been designated by the Captain of the Port, Sector Long Island Sound to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(2) *Official Patrol Vessels.* Official patrol vessels may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP Sector Long Island Sound.

(3) *Spectators.* All persons and vessels not registered with the event sponsor as participants or official patrol vessels.

(d) *Enforcement Period:* This section will be enforced from 8:30 a.m. until 3:30 p.m. on August 23, 2014 and from 8:30 a.m. until 6:30 p.m. on August 24, 2014.

Dated: June 30, 2014.

**H.L. Morrison,**

*Commander, U.S. Coast Guard, Acting Captain of the Port, Sector Long Island Sound.*

[FR Doc. 2014–16158 Filed 7–10–14; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

#### 37 CFR Part 1

[Docket No.: PTO–P–2014–0012]

RIN 0651–AC95

#### Changes To Facilitate Applicant’s Authorization of Access to Unpublished U.S. Patent Applications by Foreign Intellectual Property Offices

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The electronic sharing of information and documents between intellectual property (IP) offices is critical for increasing the efficiency and quality of patent examination worldwide. Current examples of this sharing include the priority document exchange (PDX) program and the program by which U.S. search results are delivered to the European Patent Office (EPO). In support of electronic file sharing, the United States Patent and Trademark Office (Office) is proposing to amend its rules of practice to include a specific provision by which an applicant can authorize the Office to give a foreign IP office access to all or part of the file contents of an unpublished U.S. patent application in order to satisfy a requirement for information imposed on a counterpart application filed with the foreign intellectual property office. Currently, for unpublished U.S. patent applications, applicants follow one regulatory provision to provide the Office with authorization for a foreign IP office to access an application-as-filed via a PDX program and follow another

regulatory provision to provide the Office with authorization to share the file contents with a foreign IP office. The proposed changes to the rules will consolidate the specific provisions of the regulations by which applicants give the Office authority to provide a foreign IP office with access to an application in order to satisfy a requirement for information of the foreign IP office. Additionally, along with changes to the application data sheet (ADS) form, the proposed rule changes will simplify the process for how applicants provide the Office with the required authorization, thereby reducing the resources applicants must expend to comply with these foreign IP office requirements, and enhance the quality of patent examination.

**DATES:** Written comments must be received on or before September 9, 2014.

**ADDRESSES:** Comments should be sent by electronic mail message over the Internet addressed to: *AC95.comments@uspto.gov*. Comments also may be submitted by postal mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, marked to the attention of either Susy Tsang-Foster, Senior Legal Advisor, or Joseph F. Weiss, Jr., Senior Legal Advisor, Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy.

Comments further may 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.

Although comments may be submitted by postal mail, the Office prefers to receive comments by electronic mail message over the Internet because sharing comments with the public is more easily accomplished. Electronic comments are preferred to be submitted in plain text, but also may be submitted in ADOBE® portable document format or MICROSOFT WORD® format. Comments not submitted electronically should be submitted on paper in a format that facilitates convenient digital scanning into ADOBE® portable document format.

The comments will be available for public inspection at the Office of the Commissioner for Patents, currently located in Madison East, Tenth Floor, 600 Dulany Street, Alexandria, Virginia. Comments also will be available for

viewing via the Office's Internet Web site (*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:**

Susy Tsang-Foster, Senior Legal Advisor ((571) 272-7711), or Joseph F. Weiss, Jr., Senior Legal Advisor ((571) 272-2259), Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy.

**SUPPLEMENTARY INFORMATION:** The electronic sharing of information and documents between IP offices is critical for increasing the efficiency and quality of patent examination worldwide. The electronic sharing of documents between IP offices also benefits applicants by reducing the cost of ordering documents from one IP office and then filing them in another IP office where a counterpart application has been filed.

Due to the confidential nature of unpublished U.S. patent applications, set forth in 35 U.S.C. 122, an applicant must provide the Office with written authority in accordance with 37 CFR 1.14 to grant a foreign IP office access to an unpublished U.S. patent application. With this grant of authority, the Office may electronically provide the U.S. patent application-as-filed or the requested file contents, such as information and documents, from the U.S. patent application to the foreign IP office on behalf of the applicant.

Currently, applicants comply with 37 CFR 1.14(h) when authorizing the Office to give a foreign IP office participating in a bilateral or multilateral priority document exchange agreement access to an unpublished U.S. priority application-as-filed. 37 CFR 1.14(h), however, does not provide a specific provision by which an applicant can authorize the Office to provide a foreign IP office access to an unpublished U.S. patent application's file contents including documents and other information in order to satisfy a requirement for information imposed on a counterpart application from a U.S. applicant by the foreign IP office. As a result, U.S. applicants, unprompted by the rules, must provide written authority for access by a foreign IP office to an unpublished application's contents in accordance with 37 CFR 1.14(c).

The Office is proposing to amend 37 CFR 1.14(h) to include a specific provision by which an applicant can authorize the Office to give a foreign IP

office access to all or part of the file contents (as opposed to a copy of the application-as-filed) of an unpublished patent application, including search results, to satisfy a foreign IP office requirement for information on a counterpart application filed by an U.S. applicant. The proposed changes to 37 CFR 1.14(h) would consolidate the provisions by which applicants authorize the Office to give access to an unpublished application-as-filed or its file contents to a foreign IP office, while also clarifying for applicants the provision of 37 CFR 1.14 under which such access authorization can be provided. The proposed rule change will further serve as a reminder of the opportunity for applicants to grant the Office with the authority to provide a foreign IP office with access to file contents of an unpublished U.S. patent application.

Any information concerning an unpublished application or documents from an unpublished application will only be shared in accordance with the authority provided by applicant and in accordance with the terms of any agreement between the Office and respective foreign IP offices. The Office is not proposing any fee for this service. In addition, sharing of information and documents would be limited to those foreign IP offices where applicant has filed a counterpart application and provided written authority to give a foreign IP office access to all or part of the file contents of an unpublished U.S. application.

The proposed changes to 37 CFR 1.14(h) emphasize the Office's continued support of work sharing efforts between IP offices to increase the quality of issued patents, as well as its commitment to assist in reducing the expenditure of resources of its applicants when complying with the requirements of a foreign IP office for a counterpart application.

**Revision to Application Data Sheet Form:** In addition to the proposed rule changes, the Office is planning to revise the application data sheet (ADS) form, PTO/AIA/14 (ADS form). The revised ADS form would include separate access authorizations for the PDX program and certain work sharing initiatives for which the Office has an agreement with one or more foreign IP offices.

The submission of a properly signed revised ADS form with the appropriate authorization language would be a specific act authorizing access. After a revised ADS form including the authorization language for access by foreign IP office(s) and signed in accordance with 37 CFR 1.14(c) and

1.33(b) has been submitted and placed in the application file, the Office would give the foreign IP office(s) access to the contents in accordance with the specific authorization language upon request of the foreign IP office.

In contrast to the current ADS form, the revised ADS form would include an “opt-out” check box for each access authorization and not an “opt-in” check box. Therefore, when an “opt-out” check box for a specific authorization to access is selected, the Office would not provide access to the contents of the application associated with that check box. The revised ADS form will make it easier for applicants to give the statutorily required authorization for access to specific file contents, as well as afford an applicant the opportunity to inform the Office that the required authority to allow a foreign IP office specific access to an application has not been given. Appropriate authorization language for access in any ADS generated by applicant must mirror the authorization language provided in the Office’s revised ADS form. Where an applicant-generated ADS does not include the required authorization language for access by a foreign IP office, the ADS will be interpreted as not providing the authorization necessary to give a foreign IP office access.

The changes to the Office’s ADS form should reduce those instances where an applicant inadvertently fails to provide authorization necessary to participate in PDX (by not selecting the opt-in check box for priority document exchange authorization on the current ADS form) and, as a result, must expend resources to obtain and file a copy of a U.S. priority document with a foreign IP office. Similarly, this approach will help eliminate those instances where an applicant inadvertently fails to give the Office authority (by filing form PTO/SB/69) to provide the EPO with the search results from an unpublished U.S. priority application and, as a consequence, must expend resources to file the results with the EPO.

The Office will not deliver an unpublished priority document, file contents of an unpublished application, including information about an unpublished application, to a foreign IP office, even where a counterpart application has been filed, if applicant does not provide proper written authority for access. As discussed above, the revised ADS form would need to be executed in accordance with 37 CFR 1.33(b), and if there is written authority for any access by a foreign IP office, the revised ADS form also must be executed in accordance with 37 CFR

1.14(c). Applicants should be aware of the differences in signature requirements under 37 CFR 1.33(b) and under 37 CFR 1.14(c). For example, under 37 CFR 1.33(b) in applications filed on or after September 16, 2012, the following individuals can sign:

- A patent practitioner of record;
  - A patent practitioner not of record who acts in a representative capacity under the provisions of 37 CFR 1.34; or
  - The applicant under 37 CFR 1.42.
- Unless otherwise specified, all papers submitted on behalf of a juristic entity must be signed by a patent practitioner.

By contrast, under 37 CFR 1.14(c) in applications filed on or after September 16, 2012, the following individuals can sign:

- The applicant;
- A patent practitioner of record;
- The assignee or an assignee of an undivided part interest;
- The inventor or a joint inventor; or
- A registered attorney or agent

named in the papers accompanying the application papers filed under 37 CFR 1.53 or the national stage under 37 CFR 1.495, if a power of attorney has not been appointed under 37 CFR 1.32.

Where forms PTO/SB/39 for PDX authorization and PTO/SB/69 for search results authorization are used instead of the revised ADS form, these forms must still be executed in accordance with 37 CFR 1.14(c) even though written authority is provided for under proposed 37 CFR 1.14(h). If the revised ADS form is not signed in accordance with the relevant rules, then applicant has not provided written authority for access by a foreign IP office to an application.

The transaction of sharing documents and information from a U.S. application with a foreign IP office has several built in safeguards to ensure that only authorized sharing occurs. For example, in order for a foreign IP office to receive information about a U.S. application, the Office requires that the foreign IP office expressly identify the U.S. application serial number, along with other elements of bibliographic data for each U.S. application in its request, to ensure that only the correct U.S. application’s information will be given to the foreign IP office. Once the application is properly identified, the Office will then determine whether the requisite authorization for access exists in the U.S. application. The Office will only share information or other file content from a U.S. application with a foreign IP office when both the correct application is identified and the existence of proper authorization is confirmed. If an unpublished application, which has not been foreign

filed, includes an unintended access authorization pursuant to proposed 37 CFR 1.14(h), a foreign IP office would not obtain access because it would not have the information necessary to request access to that specific U.S. application. Further, the U.S. application’s filing receipt will indicate whether applicant has provided written authority for access pursuant to proposed 37 CFR 1.14(h). Applicants should inspect the application filing receipt and request a corrected filing receipt if authorization for access under proposed 37 CFR 1.14(h) was incorrectly captured from the revised ADS form or applicant-generated ADS. If authorization for access was inadvertently given, a request for rescission of the authorization can be made, and the Office should be informed of such rescission as early as possible so the Office has time to recognize the request for rescission and act upon it.

To avoid inconsistent means of authorization for access and to avoid duplicative processing, the Office also is considering removal of the opt-in check box and associated authorization language for the PDX program from the inventor’s oath or declaration form (PTO/SB/01 for applications filed before September 16, 2012 and PTO/AIA/08 for applications filed on or after September 16, 2012). Form PTO/SB/39 for the priority document exchange authorization and Form PTO/SB/69 for the search results authorization will remain available for applicants that do not use an ADS form or have selected the check boxes for opting out of specific authorizations for access by a foreign IP office on the revised ADS form, but later decide to give a foreign IP office access to the application.

*Discussion of Specific Rules:* The following is a discussion of the amendments to title 37 of the Code of Federal Regulations, part 1, which are being proposed in this document.

*Section 1.14:* Section 1.14(h)(1) is proposed to retain the first sentence of current § 1.14(h)(1) and include the provisions from current § 1.14(h)(3). Proposed § 1.14(h)(1) also would be amended to include that the date of filing of the written authority for priority document exchange may be provided to the respective participating foreign IP office, which codifies the practice set forth in the Official Gazette of the United States Patent and Trademark Office (1328 OG 90 (March 11, 2008)). In proposed § 1.14(h)(1), the text added from current § 1.14(h)(3) has been amended to delete the language “indicated in the written authority.” This deleted language is not necessary

as written authority for access under current § 1.14(h) and proposed § 1.14(h) will result in access being granted to all PDX and WIPO Digital Access Service (DAS) participating foreign IP offices in which a subsequently filed application claims benefit of the earlier filed U.S. application. Within the WIPO DAS system, however, there is an option where an applicant may decide which WIPO DAS foreign IP office(s) are granted or not granted access.

Proposed § 1.14(h)(1)(i) and (ii) also are amended to include the term “bibliographic data” to reflect that “bibliographic data” is used to ensure the correct application-as-filed is being provided to the participating foreign IP office requesting access in any access to the application-as-filed transaction. The term bibliographic data as used in proposed § 1.14(h)(1) covers certain bibliographic data set forth in WIPO standard ST.9 for bibliographic data. The bibliographic data used to confirm that the correct application-as-filed is being provided may include the patent document identification, filing data, priority data, publication data, data concerning technical information such as patent classification (international or domestic), and title of the invention.

Proposed § 1.14(h)(2) would permit an applicant to authorize the Office to grant a foreign IP office access to the file contents of an application where a counterpart application has been filed with a foreign IP office and the counterpart application is subject to a requirement for information from the application filed with the Office. The Office would only provide access to the relevant portion or portions of an unpublished U.S. application’s file contents necessary to satisfy any requirement for information by the foreign IP office, triggered by the U.S. applicant filing a counterpart application with the foreign IP office. The Office and the foreign IP office would need to have a bilateral or multilateral agreement that provides for the secure transmission and receipt of any shared information. Proposed § 1.14(h)(2)(i) includes the term “bibliographic data” to reflect that “bibliographic data” is used to ensure the information is from the correct application for which access has been requested by the foreign IP office in any access to the application. The term bibliographic data as used in § 1.14(h)(2) includes the same types of bibliographic data set discussed above with respect to § 1.14(h)(1).

Current § 1.14(h)(2) has been moved to proposed § 1.14(h)(3).

Section 1.14(h)(3) as proposed indicates that written authority

provided under proposed §§ 1.14(h)(1) and (h)(2) should be submitted before the filing of any subsequent foreign application in which priority is claimed to the application. Section 1.14(h)(3) as proposed also indicates that the written authority under §§ 1.14(h)(1) and (2) must include the title of the invention (§ 1.72(a)), comply with the requirements of § 1.14(c), and must be submitted on an application data sheet (§ 1.76) or on a separate document (§ 1.4(c)).

*Section 1.19:* Section 1.19(b)(1)(iv) is proposed to be amended to indicate there is no fee for providing a foreign IP office with a copy of either an application-as-filed or patent related file wrapper and contents pursuant to a bilateral or multilateral agreement (see § 1.14(h)).

#### Rulemaking Considerations

*A. Administrative Procedure Act:* This rulemaking amends the rules of practice to include a specific provision by which an applicant can authorize the Office to give a foreign IP office access to all or part of the file contents of an application, and thus pertains solely to the process for an applicant to provide a limited waiver of confidentiality under 35 U.S.C. 122(a) to allow a counterpart IP office access to all or part of the file contents of an application. Therefore, the changes proposed in this rulemaking involve rules of agency practice and procedure and/or interpretive rules. *See Bachow Commc’ns Inc. v. F.C.C.*, 237 F.3d 683, 690 (D.C. Cir. 2001) (rules governing an application process are procedural under the Administrative Procedure Act); *Inova Alexandria Hosp. v. Shalala*, 244 F.3d 342, 350 (4th Cir. 2001) (rules for handling appeals were procedural where they did not change the substantive standard for reviewing claims).

Accordingly, prior notice and opportunity for public comment are not required pursuant to 5 U.S.C. 553(b) or (c) (or any other law). *See Cooper Techs. Co. v. Dudas*, 536 F.3d 1330, 1336–37 (Fed. Cir. 2008) (stating that 5 U.S.C. 553, and thus 35 U.S.C. 2(b)(2)(B), does not require notice and comment rulemaking for “interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice”) (quoting 5 U.S.C. 553(b)(A)). The Office, however, is publishing these proposed changes for comment as it seeks the benefit of the public’s views on the Office’s proposed changes to provide the Office with authority to give a foreign IP office access to all or part of the file contents of an application.

*B. Regulatory Flexibility Act:* For the reasons set forth herein, the Deputy General Counsel for General Law of the United States Patent and Trademark Office has certified to the Chief Counsel for Advocacy of the Small Business Administration that changes proposed in this document will not have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 605(b).

This rulemaking amends the rules of practice to include a specific provision by which an applicant can authorize the Office to give a foreign IP office access to all or part of the file contents of an application. This rulemaking consolidates and clarifies in one place—37 CFR 1.14(h)—existing procedures in both 37 CFR 1.14(c) and (h) relevant to authorizing the Office to provide a foreign IP office access to all or part of the file contents of an application or to an application-as-filed. The changes in this rulemaking do not require any applicant to provide the Office with this authority. There is no fee for this service. Therefore, the changes proposed in this document will not have a significant economic impact on a substantial number of small entities.

*C. Executive Order 12866 (Regulatory Planning and Review):* This rulemaking has been determined to be not significant for purposes of Executive Order 12866 (Sept. 30, 1993).

*D. Executive Order 13563 (Improving Regulation and Regulatory Review):* The Office has complied with Executive Order 13563. Specifically, the Office has, to the extent feasible and applicable: (1) Made a reasoned determination that the benefits justify the costs of the rule; (2) tailored the rule to impose the least burden on society consistent with obtaining the regulatory objectives; (3) selected a regulatory approach that maximizes net benefits; (4) specified performance objectives; (5) identified and assessed available alternatives; (6) involved the public in an open exchange of information and perspectives among experts in relevant disciplines, affected stakeholders in the private sector, and the public as a whole, and provided on-line access to the rulemaking docket; (7) attempted to promote coordination, simplification, and harmonization across government agencies and identified goals designed to promote innovation; (8) considered approaches that reduce burdens and maintain flexibility and freedom of choice for the public; and (9) ensured the objectivity of scientific and technological information and processes.

*E. Executive Order 13132 (Federalism):* This rulemaking does not

contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

*F. Executive Order 13175 (Tribal Consultation):* This rulemaking 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).

*G. Executive Order 13211 (Energy Effects):* This rulemaking is not a significant energy action under Executive Order 13211 because this rulemaking 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).

*H. Executive Order 12988 (Civil Justice Reform):* This rulemaking 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).

*I. Executive Order 13045 (Protection of Children):* This rulemaking does not concern an environmental risk to health or safety that may disproportionately affect children under Executive Order 13045 (Apr. 21, 1997).

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

*K. 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 United States Senate, the United States House of Representatives, and the Comptroller General of the Government Accountability Office. The changes in this proposed rule 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 proposed rule is not

expected to result in a "major rule" as defined in 5 U.S.C. 804(2).

*L. Unfunded Mandates Reform Act of 1995:* The changes set forth in this proposed rule 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.*

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

*N. 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 not applicable because this rulemaking does not contain provisions which involve the use of technical standards.

*O. Paperwork Reduction Act:* The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) requires that the Office consider the impact of paperwork and other information collection burdens imposed on the public. This rulemaking 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. 3501–3549). The collection of information involved in this rulemaking has been reviewed and previously approved by OMB under OMB Control Numbers 0651–0031 and 0651–0032. The Office is not resubmitting an information collection package to OMB for its review and approval because the changes in this rulemaking do not change patent fees or change the information collection requirements (the estimated number of respondents, time per response, total annual respondent burden hours, or total annual respondent cost burden) associated with the information collections approved under OMB Control Numbers 0651–0031 and 0651–0032.

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 recordkeeping requirements, Small businesses.

For the reasons stated in the preamble, 37 CFR part 1 is proposed to be amended 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. Section 1.14 is amended by revising paragraph (h) to read as follows:

#### § 1.14 Patent applications preserved in confidence.

\* \* \* \* \*

(h) *Access by a Foreign Intellectual Property Office.* (1) Access to an application-as-filed may be provided to any foreign intellectual property office participating with the Office in a bilateral or multilateral priority document exchange agreement (participating foreign intellectual property office), if the application contains written authority granting such access. Written authority provided under this paragraph (h)(1) will be treated as authorizing the Office to provide to all participating foreign intellectual property offices in accordance with their respective agreements with the Office:

(i) A copy of the application-as-filed and its related bibliographic data;

(ii) A copy of the application-as-filed of any application the filing date of which is claimed by the application in which written authority under this paragraph (h)(1) is filed and its related bibliographic data; and

(iii) The date of filing of the written authorization under this paragraph (h)(1).

(2) Access to the file contents of an application may be provided to a foreign intellectual property office if a counterpart application filed with the foreign intellectual property office is subject to a requirement for information from the application filed with the Office, the application contains written authority granting the foreign intellectual property office access to the required information, and the Office and the foreign intellectual property office have a bilateral or multilateral agreement to provide the required information. Written authority provided

under this paragraph (h)(2) will be treated as authorizing the Office to provide to all foreign intellectual property offices indicated in the written authority in accordance with their respective agreements with the Office:

(i) Bibliographic data regarding the application; and

(ii) Any content of the application file necessary to satisfy the foreign intellectual property office requirement for information indicated in the respective agreement.

(3) Written authority provided under paragraphs (h)(1) and (h)(2) of this section must include the title of the invention (§ 1.72(a)), comply with the requirements of paragraph (c) of this section, and be submitted on an application data sheet (§ 1.76) or on a separate document (§ 1.4(c)). The written authority provided under these paragraphs should be submitted before filing any subsequent foreign application in which priority is claimed to the application.

■ 3. Section 1.19 is amended by revising paragraph (b)(1)(iv) to read as follows:

**§ 1.19 Document supply fees.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(iv) If provided to a foreign intellectual property office pursuant to a bilateral or multilateral agreement (see § 1.14(h)): \$0.00.

\* \* \* \* \*

Dated: July 2, 2014.

**Michelle K. Lee,**

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

[FR Doc. 2014-16062 Filed 7-10-14; 8:45 am]

**BILLING CODE 3510-16-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 168**

[EPA-HQ-OPP-2009-0607; FRL-9913-19]

RIN 2070-AJ53

**Labeling of Pesticide Products and Devices for Export; Clarification of Requirements**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to amend the regulations that pertain to the labeling of pesticide products and devices that are intended solely for export. These amendments clarify that

pesticide products and devices that are intended solely for export must meet the Agency's labeling requirements by attaching a label to the immediate product container or by providing collateral labeling that is either attached to the immediate product being exported or that accompanies the shipping container of the product being exported at all times when it is shipped or held for shipment in the United States. Collateral labeling will ensure the availability of the required labeling information, while allowing pesticide products and devices that are intended solely for export to be labeled for use in and consistent with the applicable requirements of the importing country.

**DATES:** Comments must be received on or before August 11, 2014.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2009-0607, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001.

- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:**

Kathryn Boyle, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; telephone number: (703) 305-6304; email address: [boyle.kathryn@epa.gov](mailto:boyle.kathryn@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Executive Summary**

*A. Does this action affect me?*

You may be potentially affected by this action if you export a pesticide product, a pesticide device, or an active ingredient used in producing a pesticide. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether

this document applies to them. Potentially affected entities may include, but are not limited to: Pesticide and other agricultural chemical manufacturing (NAICS code 325320), e.g., Pesticides manufacturing, Insecticides manufacturing, Herbicides manufacturing, Fungicides manufacturing, etc.

*B. What is the Agency's authority for taking this action?*

This action is issued under the authority of section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136w(a), to carry out the provisions of FIFRA section 17(a), 7 U.S.C. 136o(a).

*C. What action is the Agency taking?*

EPA is proposing to amend the regulations that pertain to the labeling of pesticide products and devices that are intended solely for export. These amendments clarify that pesticide products and devices that are intended solely for export must meet the Agency's labeling requirements by attaching a label to the immediate product container or by providing collateral labeling that is either attached to the immediate product being exported or that accompanies the shipping container of the product being exported at all times when it is shipped or held for shipment in the United States. Collateral labeling will ensure the availability of the required labeling information, while allowing pesticide products and devices that are intended solely for export to be labeled for use in and consistent with the applicable requirements of the importing country.

*D. What are the impacts of this action?*

There are no costs associated with this action, and the benefits provided are related to avoiding potential costs. Without these labeling provisions, registrants would be required to place export-related labeling on the immediate package of each individual pesticide product in a shipping container that is intended solely for export. According to stakeholders, the inability to use the labeling method allowed under the previous regulations could significantly increase their costs and create trade barriers.

**II. Background**

*A. The April 30, 2014 Direct Final Rule*

Industry stakeholders subsequently brought to the Agency's attention their concern that removing the term "supplemental labeling" resulted in the removal of a provision stating that such supplemental labeling can be attached to a shipping container holding export