

OH, 44199–2060 between 6:30 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (216) 902–6084.

FOR FURTHER INFORMATION CONTACT: Mr. Scot Striffler, Project Manager, Ninth Coast Guard District Bridge Branch, at (216) 902–6084.

SUPPLEMENTARY INFORMATION:

Discussion of Temporary Rule

The owner of the bridge, Michigan Department of Transportation (M–DOT), requested the Coast Guard approval of full closure of the bridge to complete deck replacement work and maintenance to the operating machinery. The regulations governing the operation of the bridge require it to open with 24 hours advance notice from mariners between January 1 and March 15 each year. M–DOT requested that the bridge not be required to open at all during this time, as well as a continuation of this status until April 25, 2000. Bridge logs submitted by M–DOT indicated 12 openings in the month of April in 1999, all by non-commercial vessels, with most of them occurring after April 14, 1999. A National Park Service vessel that operates between Houghton and Isle Royale Park required 3 of the openings in April 1999. The Park Service was contacted to provide input on the requested closure time and expressed no objections.

The closure dates of January 1 until April 25, 2000, were determined by Commander Ninth Coast Guard District to be appropriate in keeping the planned maintenance from interrupting the operations of the bridge during the traditional boating season in the waterway. Requests for openings by recreational boaters do not normally begin until approximately June 1 each year.

This temporary rule is being promulgated without a notice of proposed rulemaking. Under 5 U.S.C. 553(b)(3)(B) the Coast Guard finds that good cause exists for not publishing an NPRM. The factors underlying this finding include the extensive input already received from affected mariners, limited vessel activity during the authorized closure period due to severe weather and ice, and the need to perform the work necessary to maintain the bridge in a safe and operable condition during regular operating times.

Regulatory Evaluation

This temporary rule is not a significant regulatory action under section 3(f) of Executive Order 12866

and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed this rule under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. There have been no bridge openings for commercial vessels in previous years during the authorized closure period.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this temporary rule will have a significant impact on a substantial number of small entities. “Small entities” may include small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

Marine activity in the waterway is virtually non-existent during the authorized closure period due to extreme weather and ice. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this temporary rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This temporary rule does not provide for a collection-of-information requirement under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this temporary rule under the principles and criteria contained in Executive Order 13132 and has determined that this temporary rule does not have federalism implications under that Order.

Environment

The Coast Guard considered the environmental impact of this temporary rule and concluded that, under figure 2–1, paragraph 32(e) of Commandant Instruction M16475.IC, this temporary rule is categorically excluded from further environmental documentation. A “Categorical Exclusion Determination” is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, the Coast Guard temporarily amends Part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Effective from 12:01 a.m., January 1, 2000, to 11:59 p.m., April 25, 2000, § 117.635 is suspended and a new § 117.T636 is added to read as follows:

§ 117.T636 Keweenaw Waterway.

The draw of the U.S. 41 bridge, mile 16.0 over the Keweenaw Waterway in Houghton, Michigan, need not open for the passage of vessels and may be maintained in the closed-to-navigation position.

Dated: November 9, 1999.

James D. Hull,

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

[FR Doc. 99–31439 Filed 12–2–99; 8:45 am]

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DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1 and 2

[Docket No. 991105297–9297–01]

RIN 0651–AB01

Revision of Patent and Trademark Fees for Fiscal Year 2000

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent and Trademark Office (PTO) is amending the rules of practice in patent and trademark cases to adjust certain patent fee amounts to conform to the fee amounts set by law in the American Inventors Protection Act of 1999 as part of the conference report (H. Rep. 106–479) on H.R. 3194, Consolidated Appropriations Act, Fiscal Year 2000. The text of the American Inventors Protection Act of 1999 is contained in title IV of S. 1948, the Intellectual Property and Communications Omnibus Reform Act of 1999, which is incorporated by reference in Division B of the conference report. The PTO is also

adjusting certain trademark fee amounts to recover the cost of all trademark activities as provided for in H.R. 3194 (S. 1948). In addition, the PTO is adjusting, by a corresponding amount, two patent fees that track the basic filing fee.

EFFECTIVE DATES: The amendments to 37 CFR 1.16, 1.20, and 1.492 are effective on December 29, 1999. The amendments to 37 CFR 1.17 and 2.6 are effective on January 10, 2000.

FOR FURTHER INFORMATION CONTACT: Matthew Lee by telephone at (703) 305-8051, by e-mail at matthew.lee@uspto.gov, by facsimile at (703) 305-8007, or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Office of Finance, Crystal Park 1, Suite 802, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: This final rule adjusts certain patent fees in accordance with the Consolidated Appropriations Act, Fiscal Year 2000 (H.R. 3194), which incorporates the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), and adjusts certain trademark fees to recover costs.

Background

Section 31(a) of the Trademark Act of 1946 (15 U.S.C. 1113(a)) authorizes the Commissioner of Patents and Trademarks to annually adjust the fees established for the filing and processing of trademark applications, for the registration of trademarks and other marks, and for all other services performed by the PTO related to trademarks and other marks, to reflect aggregate fluctuations in the Consumer Price Index (CPI) during the previous twelve months. Trademark processing fees have not been adjusted since 1993, when the application fee was adjusted. Other trademark fees have not been changed since 1982.

As a result of increases in filings, efforts to reduce the pendency of trademark applications before the PTO, and to reduce the backlog of unexamined cases, the PTO has hired additional trademark examining attorneys and instituted an electronic filing system for trademark applications. Current trademark fee rates are insufficient to recover these additional costs. In addition, the PTO has employed activity-based cost accounting principles and systems on an agency-wide basis to measure the full cost of patent and trademark activities, including indirect costs. To fully recover the cost of all trademark activities, including indirect trademark

operation costs, the PTO needs to adjust trademark fees sufficiently to recover an estimated \$30 million in fiscal years 2000 and 2001. H.R. 3194 (S. 1948) authorizes the Commissioner to make such an adjustment to trademark fees.

Patent fees were adjusted in 1998 as a result of Public Law 105-358. Public Law 105-358 set:

(1) The basic filing fee for an original utility patent application (35 U.S.C. 41(a)(1)(A)) or a reissue patent application (35 U.S.C. 41(a)(4)(A)) at \$760 (\$380 for a small entity);

(2) The basic national fee for an international application in which the PTO was the International Searching Authority (ISA) but not the International Preliminary Examining Authority (IPEA) (35 U.S.C. 41(a)(10)) at \$760 (\$380 for a small entity); and

(3) The first patent maintenance fee (35 U.S.C. 41(b)(1)) at \$940 (\$470 for a small entity).

The Commissioner may also adjust fees set forth in 35 U.S.C. 41(a) and (b) to reflect any fluctuations in the Consumer Price Index (CPI) during the previous twelve months. See 35 U.S.C. 41(f). With the recent implementation of activity-based cost accounting principles and systems on an agency-wide basis, the PTO recognized that patent fee revenue has been partially offsetting the indirect trademark operation costs. Since H.R. 3194 (S. 1948) authorizes the Commissioner to adjust trademark fees to fully cover the costs of trademark operations, an adjustment to selective patent fees is necessary in fiscal year 2000 because those fees will no longer be needed to offset indirect trademark operation expenses. Thus, H.R. 3194 (S. 1948) reduces:

(1) The basic filing fee for an original utility patent application (35 U.S.C. 41(a)(1)(A)) or a reissue patent application (35 U.S.C. 41(a)(4)(A)) to \$690 (\$345 for a small entity);

(2) The basic national fee for an international application in which the PTO was the ISA but not the IPEA (35 U.S.C. 41(a)(10)) to \$690 (\$345 for a small entity); and

(3) The first patent maintenance fee (35 U.S.C. 41(b)(1)) to \$830 (\$415 for a small entity).

This final rule conforms the patent fees set forth in 37 CFR 1.16(a) and (h), 1.20(e), and 1.492(a)(2) to the fee amounts specified in H.R. 3194 (S. 1948). Specifically, §§ 1.16(a) and (h), and 1.492(a)(2) are amended to correspond to the patent fees specified in amended 35 U.S.C. 41(a). Section 1.20(e) is amended to indicate the patent fee specified in amended 35 U.S.C. 41(b). This final rule also adjusts

two patent fees that track the basic filing fee. Sections 1.17(r) and (s) are reduced to correspond to the basic filing fee provided in 35 U.S.C. 41(a)(1)(A), as amended by H.R. 3194 (S. 1948).

Section 1.53(d), which relates to a continued prosecution application (CPA), is not being revised by this final rule. However, it should be noted that § 1.53(d)(3) requires payment of the basic filing fee as set forth in 37 CFR 1.16.

Section 41(g) of title 35, United States Code, provides that new fee amounts established by the Commissioner under section 41 may take effect 30 days after notice in the **Federal Register** and the Official Gazette of the Patent and Trademark Office.

In addition, this final rule adjusts trademark fees set forth in 37 CFR 2.6(a)(1), (a)(4), (a)(5), (a)(13), (a)(16), and (a)(17), to recover costs.

Section 31 of the Trademark Act of 1946 (15 U.S.C. 1113(a)), allows new trademark fee amounts to take effect 30 days after notice in the **Federal Register** and the Official Gazette of the Patent and Trademark Office.

A comparison of the current fee amounts and the new fee amounts for fiscal year 2000 is included as an Appendix to this final rule.

Procedures for Determining the Correct Fee Amount Owed

The following subsections detail the procedures for determining the fees owed during the transition to the new fee schedule.

Fees owed may be affected by proper use of a Certificate of Mailing or Transmission under § 1.8(a)(1), or use of "Express Mail Post Office to Addressee" under § 1.10(a).

Items for which a Certificate of Mailing or Transmission under § 1.8(a)(1) is not proper include, for example, national (including a continued prosecution application (CPA) under § 1.53(d)) and international patent applications, and trademark applications. See 37 CFR 1.8(a)(2).

Under § 1.10(a), any 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 Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation.

a. The Post Issuance Fee for Patents Under 35 U.S.C. 41(b)

Section 41(b) of title 35, United States Code, provides for maintenance fees. Any maintenance fee amount that is

paid on or after the effective date of the final fee adjustment will be subject to the new fee.

If a Certificate of Mailing or Transmission was used, and was proper under § 1.8(a)(1), the fee required is the lower of:

(1) The fee in effect on the date the PTO receives the fee; or

(2) The fee in effect on the date of mailing indicated on a proper Certificate of Mailing or Transmission under § 1.8(a)(1).

Under § 1.10(a), any correspondence delivered by the "Express Mail Post Office to Addressee" service of the USPS is considered filed or received in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation.

b. The Filing Fee for Patent Applications Filed Under 35 U.S.C. 111 and 37 CFR 1.53

Section 111 of title 35, United States Code, provides for the filing of a patent application with the PTO. If the filing fee for an application filed under 35 U.S.C. 111 is received when the application is filed, the filing fee required is the filing fee in effect on the filing date assigned to the application. If the PTO receives the filing fee on a date later than the filing date assigned to the application, the filing fee required is the higher of:

(1) The filing fee in effect on the filing date assigned to the application; or

(2) The filing fee in effect on the date the PTO receives the filing fee.

The filing fee includes the basic fee, excess claims fees (if any), and the multiple dependent claim fee (if any), for claims present on filing (unless the excess or multiple dependent claims are canceled before the filing fee is paid). Of course, if the basic filing fee is received on a date later than the filing date assigned to the application filed under 35 U.S.C. 111, a surcharge as set forth in § 1.16(e) is also required.

A Certificate of Mailing or Transmission under § 1.8(a)(1) cannot be used for national (including a continued prosecution application (CPA) under § 1.53(d)) and international patent applications. See 37 CFR 1.8(a)(2).

Under § 1.10(a), any correspondence delivered by the "Express Mail Post Office to Addressee" service of the USPS is considered filed or received in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation.

c. The Fees for International Patent Applications Entering the National Stage Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495

Section 371 of title 35, United States Code, provides for the national stage filing of a patent application under the Patent Cooperation Treaty. The basic national fee for an international application entering the national stage is due not later than the expiration of 20 months from the priority date in the international application (or 30 months from the priority date if the United States was elected prior to the expiration of 19 months from the priority date). The amount of the basic national fee that is required to be paid is the basic national fee in effect on the date the full fee is received.

A Certificate of Mailing or Transmission under § 1.8(a)(1) cannot be used for international patent applications. See 37 CFR 1.8(a)(2).

Under § 1.10(a), any correspondence delivered by the "Express Mail Post Office to Addressee" service of the USPS is considered filed or received in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation.

d. For Filing Trademark Applications Under 15 U.S.C. 1051

Section 1051 of title 15, United States Code, provides for the filing of trademark applications. The initial filing fee required for a trademark application filed under 15 U.S.C. 1051 is the filing fee in effect on the filing date assigned to the application.

Under § 1.6, documents are considered filed as of the date of receipt at the PTO, unless the documents are filed under § 1.10, which provides for filing by Express Mail. Under § 1.10(a), any correspondence delivered by the "Express Mail Post Office to Addressee" service of the USPS is considered filed or received in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation.

A Certificate of Mailing or Transmission under § 1.8(a)(1) cannot be used for filing a trademark application. See 37 CFR 1.8(a)(2).

Under § 2.21(a)(5), a trademark applicant must submit the filing fee for at least one class of goods or services before the application can be given a filing date. If the trademark application is accompanied by the fee for at least a single class of goods or services, but does not include fees sufficient to cover

all the classes in the application, the application will be given a filing date, and the applicant will be required to submit the fees for the additional class(es) during examination. If the applicant submits fee(s) for additional class(es) after the application filing date, the fee(s) in effect on the date the fee(s) for the additional class(es) is received at the PTO will apply. The applicant may use a Certificate of Mailing or Transmission under § 1.8(a)(1) to file the additional fee(s).

e. For All Other Trademark Process Fees Affected by this Notice

For trademark process fees other than the initial fee for filing a trademark application, the applicant may use a Certificate of Mailing or Transmission under § 1.8(a)(1). If a Certificate of Mailing or Transmission is used to mail or transmit the fee, and the Certificate meets the requirements of § 1.8(a)(1), the fee in effect on the date indicated on the Certificate of Mailing or Transmission will apply.

Owners of registered trademarks should note that failure to timely submit the required fee for an affidavit of continued use or excusable nonuse under 15 U.S.C. 1058, or a renewal application under 15 U.S.C. 1059, may also result in a deficiency surcharge under 15 U.S.C. 1058(c)(2) or 15 U.S.C. 1059(a). See §§ 2.164 and 2.185.

Other Considerations

This final rule contains no information collection within the meaning of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* This final rule has been determined to be not significant for purposes of Executive Order 12866.

This final rule adjusts certain patent fees and trademark fees indicated in Parts 1 and 2 of title 37, Code of Federal Regulations, to the fee amounts set by law or provided for by law. Therefore, prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553(a)(2) (or any other law). As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

Lists of Subjects in 37 CFR Part 1

Administrative practice and procedure, Inventions and patents, Reporting and record keeping requirements, Small businesses.

PART 1—RULES OF PRACTICE IN PATENT CASES

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

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

2. Section 1.16 is amended by revising paragraphs (a) and (h), to read as follows:

§ 1.16 National application filing fees.

(a) Basic fee for filing each application for an original patent, except provisional, design or plant applications:

By a small entity (§ 1.9(f)) \$345.00
By other than a small entity 690.00

* * * * *

(h) Basic fee for filing each reissue application:

By a small entity (§ 1.9(f)) \$345.00
By other than a small entity 690.00

* * * * *

3. Section 1.17 is amended by revising paragraphs (r) and (s), to read as follows:

§ 1.17 Patent application processing fees.

* * * * *

(r) For entry of a submission after final rejection under § 1.129(a):

By a small entity (§ 1.9(f)) \$345.00
By other than a small entity 690.00

(s) For each additional invention requested to be examined under § 1.129(b):

By a small entity (§ 1.9(f)) \$345.00
By other than a small entity 690.00

4. Section 1.20 is amended by revising paragraph (e) to read as follows:

§ 1.20 Post issuance fees.

* * * * *

(e) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after December 12, 1980, in force beyond four years; the fee is due by three years and six months after the original grant:

By a small entity (§ 1.9(f)) \$415.00
By other than a small entity 830.00

* * * * *

5. Section 1.492 is amended by revising paragraph (a)(2) to read as follows:

§ 1.492 National stage fees.

* * * * *

(a) * * *

* * * * *

(2) Where no international preliminary examination fee as set forth in § 1.482 has been paid to the United States Patent and Trademark Office, but an international search fee as set forth in § 1.445(a)(2) has been paid on the international application to the United States Patent and Trademark Office as an International Searching Authority:

By a small entity (§ 1.9(f)) \$345.00
By other than a small entity 690.00

* * * * *

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

1. The authority citation for 37 CFR Part 2 continues to read as follows:

Authority: 15 U.S.C. 1123; 35 U.S.C. 6, unless otherwise noted.

2. Section 2.6 is amended by revising paragraphs (a)(1), (a)(4), (a)(5), (a)(13), (a)(16), and (a)(17), to read as follows:

§ 2.6 Trademark fees.

* * * * *

(a) * * *

(1) For filing an application, per class \$325.00

* * * * *

(4) For filing a request under section 1(d)(2) of the Act for a six-month extension of time for filing a statement of use under section 1(d)(1) of the Act, per class \$150.00

(5) For filing an application for renewal of a registration, per class 400.00

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(13) For filing an affidavit under § 15 of the Act, per class \$200.00

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(16) For filing a petition to cancel, per class \$300.00

(17) For filing a notice of opposition, per class 300.00

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Dated: November 30, 1999.

Q. Todd Dickinson,

Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

Note: The following appendix is provided as a courtesy to the public, but is not a substitute for the rules. It will not appear in the Code of Federal Regulations.

APPENDIX A—COMPARISON OF CURRENT AND NEW FEE AMOUNTS

Fee code	37 CFR sec.	Description	FY 1999	FY 2000
101	1.16(a)	Basic filing fee—Utility	\$760	¹ 690
201	1.16(a)	Basic filing fee—Utility (Small Entity)	380	¹ 345
131	1.16(a)	Basic filing fee—Utility (CPA)	760	¹ 690
231	1.16(a)	Basic filing fee—Utility (CPA) (Small Entity)	380	¹ 345
102	1.16(b)	Independent claims in excess of three	78	⁽⁴⁾
202	1.16(b)	Independent claims in excess of three (Small Entity)	39	⁽⁴⁾
103	1.16(c)	Claims in excess of twenty	18	⁽⁴⁾
203	1.16(c)	Claims in excess of twenty (Small Entity)	9	⁽⁴⁾
104	1.16(d)	Multiple dependent claim	260	⁽⁴⁾
204	1.16(d)	Multiple dependent claim (Small Entity)	130	⁽⁴⁾
105	1.16(e)	Surcharge—Late filing fee	130	⁽⁴⁾
205	1.16(e)	Surcharge—Late filing fee (Small Entity)	65	⁽⁴⁾
106	1.16(f)	Design filing fee	310	⁽⁴⁾
206	1.16(f)	Design filing fee (Small Entity)	155	⁽⁴⁾
132	1.16(f)	Design filing fee (CPA)	310	⁽⁴⁾
232	1.16(f)	Design filing fee (CPA) (Small Entity)	155	⁽⁴⁾
107	1.16(g)	Plant filing fee	480	⁽⁴⁾
207	1.16(g)	Plant filing fee (Small Entity)	240	⁽⁴⁾
133	1.16(g)	Plant filing fee (CPA)	480	⁽⁴⁾
233	1.16(g)	Plant filing fee (CPA) (Small Entity)	240	⁽⁴⁾
108	1.16(h)	Reissue filing fee	760	¹ 690
208	1.16(h)	Reissue filing fee (Small Entity)	380	¹ 345
134	1.16(h)	Reissue filing fee (CPA)	760	¹ 690
234	1.16(h)	Reissue filing fee (CPA) (Small Entity)	380	¹ 345
109	1.16(i)	Reissue independent claims	78	⁽⁴⁾

APPENDIX A—COMPARISON OF CURRENT AND NEW FEE AMOUNTS—Continued

Fee code	37 CFR sec.	Description	FY 1999	FY 2000
209	1.16(i)	Reissue independent claims (Small Entity)	39	(4)
110	1.16(j)	Reissue claims in excess of twenty	18	(4)
210	1.16(j)	Reissue claims in excess of twenty (Small Entity)	9	(4)
114	1.16(k)	Provisional application filing fee	150	(4)
214	1.16(k)	Provisional application filing fee (Small Entity)	75	(4)
127	1.16(l)	Surcharge—Late provisional filing fee	50	(4)
227	1.16(l)	Surcharge—Late provisional filing fee (Small Entity)	25	(4)
115	1.17(a)(1)	Extension—First month	110	(4)
215	1.17(a)(1)	Extension—First month (Small Entity)	55	(4)
116	1.17(a)(2)	Extension—Second month	380	(4)
216	1.17(a)(2)	Extension—Second month (Small Entity)	190	(4)
117	1.17(a)(3)	Extension—Third month	870	(4)
217	1.17(a)(3)	Extension—Third month (Small Entity)	435	(4)
118	1.17(a)(4)	Extension—Fourth month	1,360	(4)
218	1.17(a)(4)	Extension—Fourth month (Small Entity)	680	(4)
128	1.17(a)(5)	Extension—Fifth month	1,850	(4)
228	1.17(a)(5)	Extension—Fifth month (Small Entity)	925	(4)
119	1.17(b)	Notice of appeal	300	(4)
219	1.17(b)	Notice of appeal (Small Entity)	150	(4)
120	1.17(c)	Filing a brief in support of an appeal	300	(4)
220	1.17(c)	Filing a brief in support of an appeal (Small Entity)	150	(4)
121	1.17(d)	Request for oral hearing	260	(4)
221	1.17(d)	Request for oral hearing (Small Entity)	130	(4)
122	1.17(h)	Petition—Not all inventors	130	(4)
122	1.17(h)	Petition—Correction of inventorship	130	(4)
122	1.17(h)	Petition—Decision on questions	130	(4)
122	1.17(h)	Petition—Suspend rules	130	(4)
122	1.17(h)	Petition—Expedited license	130	(4)
122	1.17(h)	Petition—Scope of license	130	(4)
122	1.17(h)	Petition—Retroactive license	130	(4)
122	1.17(h)	Petition—Refusing maintenance fee	130	(4)
122	1.17(h)	Petition—Refusing maintenance fee—expired patent	130	(4)
122	1.17(h)	Petition—Interference	130	(4)
122	1.17(h)	Petition—Reconsider interference	130	(4)
122	1.17(h)	Petition—Late filing of interference	130	(4)
122	1.20(b)	Petition—Correction of inventorship	130	(4)
122	1.17(h)	Petition—Refusal to publish SIR	130	(4)
122	1.17(i)	Petition—For assignment	130	(4)
122	1.17(i)	Petition—For application	130	(4)
122	1.17(i)	Petition—Late priority papers	130	(4)
122	1.17(i)	Petition—Suspend action	130	(4)
122	1.17(i)	Petition—Divisional reissues to issue separately	130	(4)
122	1.17(i)	Petition—For interference agreement	130	(4)
122	1.17(i)	Petition—Amendment after issue	130	(4)
122	1.17(i)	Petition—Withdrawal after issue	130	(4)
122	1.17(i)	Petition—Defer issue	130	(4)
122	1.17(i)	Petition—Issue to assignee	130	(4)
122	1.17(i)	Petition—Accord a filing date under § 1.53	130	(4)
122	1.17(i)	Petition—Accord a filing date under § 1.62	130	(4)
122	1.17(i)	Petition—Make application special	130	(4)
138	1.17(j)	Petition—Public use proceeding	1,510	(4)
139	1.17(k)	Non-English specification	130	(4)
140	1.17(l)	Petition—Revive unavoidably abandoned appl.	110	(4)
240	1.17(l)	Petition—Revive unavoidably abandoned appl. (Small Entity)	55	(4)
141	1.17(m)	Petition—Revive unintentionally abandoned appl.	1,210	(4)
241	1.17(m)	Petition—Revive unintent. abandoned appl. (Small Entity)	605	(4)
112	1.17(n)	SIR—Prior to examiner's action	920	(4)
113	1.17(o)	SIR—After examiner's action	1,840	(4)
126	1.17(p)	Submission of an Information Disclosure Statement (§ 1.97)	240	(4)
123	1.17(q)	Petition—Correction of inventorship (prov. app.)	50	(4)
123	1.17(q)	Petition—Accord a filing date (prov. app.)	50	(4)
123	1.17(q)	Petition—Entry of submission after final rejection (prov. app.)	50	(4)
146	1.17(r)	Filing a submission after final rejection (1.129(a))	760	² 690
246	1.17(r)	Filing a submission after final rejection (1.129(a)) (Small Entity)	380	² 345
149	1.17(s)	Per additional invention to be examined (1.129(b))	760	² 690
249	1.17(s)	Per additional invention to be examined (1.129(b)) (Small Entity)	380	² 345
142	1.18(a)	Utility issue fee	1,210	(4)
242	1.18(a)	Utility issue fee (Small Entity)	605	(4)
143	1.18(b)	Design issue fee	430	(4)
243	1.18(b)	Design issue fee (Small Entity)	215	(4)
144	1.18(c)	Plant issue fee	580	(4)

APPENDIX A—COMPARISON OF CURRENT AND NEW FEE AMOUNTS—Continued

Fee code	37 CFR sec.	Description	FY 1999	FY 2000
244	1.18(c)	Plant issue fee (Small Entity)	290	(4)
561	1.19(a)(1)(i)	Patent copy	3	(4)
562	1.19(a)(1)(ii)	Patent copy, overnight delivery to PTO Box or overnight fax	6	(4)
563	1.19(a)(1)(iii)	Patent copy, ordered by expedited mail or fax—exp. service	25	(4)
564	1.19(a)(2)	Plant patent copy	15	(4)
565	1.19(a)(3)	Copy of utility patent or SIR in color	25	(4)
566	1.19(b)(1)(ii)	Certified copy of patent application as filed	15	(4)
567	1.19(b)(1)(iii)	Certified copy of patent application as filed, expedited	30	(4)
568	1.19(b)(2)	Cert. or uncert. copy of patent-related file wrapper and contents	150	(4)
569	1.19(b)(3)	Cert. or uncert. copy of document, unless otherwise provided	25	(4)
570	1.19(b)(4)	For assignment records, abstract of title and certification	25	(4)
571	1.19(c)	Library service	50	(4)
572	1.19(b)	List of U.S. patents and SIRs in subclass	3	(4)
573	1.19(e)	Uncertified statement re status of maintenance fee payment	10	(4)
574	1.19(f)	Copy of non-U.S. document	25	(4)
575	1.19(g)	Comparing and certifying copies, per document, per cpy	25	(4)
576	1.19(h)	Duplicate or corrected filing receipt	25	(4)
145	1.20(a)	Certificate of correction	100	(4)
147	1.20(c)	Filing a request for reexamination	2,520	(4)
148	1.20(d)	Statutory disclaimer	110	(4)
248	1.20(d)	Statutory disclaimer (Small Entity)	55	(4)
183	1.20(e)	Maintenance fee—due at 3.5 years	940	¹ 830
283	1.20(e)	Maintenance fee—due at 3.5 years (Small Entity)	470	¹ 415
184	1.20(f)	Maintenance fee—due at 7.5 years	1,900	(4)
284	1.20(f)	Maintenance fee—due at 7.5 years (Small Entity)	950	(4)
185	1.20(g)	Maintenance fee—due at 11.5 years	2,910	(4)
285	1.20(g)	Maintenance fee—due at 11.5 years (Small Entity)	1,455	(4)
186	1.20(h)	Surcharge—Late payment within 6 months	130	(4)
286	1.20(h)	Surcharge—Late payment within 6 months (Small Entity)	65	(4)
187	1.20(i)(1)	Surcharge—Maintenance after expiration—unavoidable	700	(4)
188	1.20(i)(2)	Surcharge—Maintenance after expiration—unintentional	1,640	(4)
111	1.20(j)(1)	Extension of term of patent (1.740)	1,120	(4)
124	1.20(j)(2)	Initial application for interim extension (1.790)	420	(4)
125	1.20(j)(3)	Subsequent application for interim extension (1.790)	220	(4)
609	1.21(a)(1)(i)	Application fee (non-refundable)	40	(4)
619	1.21(a)(1)(ii)	Registration examination fee	310	(4)
610	1.21(a)(2)	Registration to practice	100	(4)
611	1.21(a)(3)	Reinstatement to practice	40	(4)
612	1.21(a)(4)	Copy of certificate of good standing	10	(4)
613	1.21(a)(4)	Certificate of good standing—suitable for framing	20	(4)
615	1.21(a)(5)	Review of decision of Director, OED)	130	(4)
616	1.21(a)(6)(i)	Regrading of A.M. section (PTO Practice and Procedure)	230	(4)
620	1.21(a)(6)(ii)	Regrading of P.M. section (Claim Drafting)	230	(4)
607	1.21(b)(1)	Establish deposit account	10	(4)
608	1.21(b)(2)	Service charge for below minimum balance	25	(4)
608	1.21(b)(3)	Service charge for below minimum balance—restricted account	25	(4)
577	1.21(c)	Disclosure document filing fee	10	(4)
578	1.21(d)	Local delivery box rental, annually	50	(4)
579	1.21(e)	International type search report	40	(4)
580	1.21(g)	Self-service copy charge, per page	.25	(4)
581	1.21(h)	Recording each patent assignment, per property	40	(4)
583	1.21(i)	Publication in Official Gazette	25	(4)
584	1.21(j)	Labor charges for services, per hour or fraction thereof	40	(4)
585	1.21(k)	Unspecified other services, excluding labor	(⁵)	(4)
592	1.21(k)	APS—CSIR terminal session time, per hour	50	(4)
586	1.21(l)	Retaining abandoned application	130	(4)
617	1.21(m)	Processing returned checks	50	(4)
587	1.21(n)	Handling fee for incomplete or improper application	130	(4)
588	1.21(o)	APS—Text terminal session time, per hour	40	(4)
590	1.24	Coupons for patent and trademark copies	3	(4)
589	1.296	Handling fees for withdrawal of SIR	130	(4)
150	1.445(a)(1)	Transmittal fee	240	(4)
153	1.445(a)(2)(i)	PCT search fee—prior U.S. application	450	(4)
151	1.445(a)(2)(ii)	PCT search fee—no U.S. application	700	(4)
152	1.445(a)(3)	Supplemental search per additional invention	210	(4)
190	1.482(a)(1)(i)	Preliminary examination fee—ISA was the U.S.	490	(4)
191	1.482(a)(1)(ii)	Preliminary examination fee—ISA not the U.S.	750	(4)
192	1.482(a)(2)(i)	Additional invention—ISA was the U.S.	140	(4)
193	1.482(a)(2)(ii)	Additional invention—ISA not the U.S.	270	(4)
956	1.492(a)(1)	IPEA—U.S.	670	(4)
957	1.492(a)(1)	IPEA—U.S. (Small Entity)	335	(4)

APPENDIX A—COMPARISON OF CURRENT AND NEW FEE AMOUNTS—Continued

Fee code	37 CFR sec.	Description	FY 1999	FY 2000
958	1.492(a)(2)	ISA—U.S.	760	¹ 690
959	1.492(a)(2)	ISA—U.S. (Small Entity)	380	¹ 345
960	1.492(a)(3)	PTO not ISA or IPEA	970	(⁴)
961	1.492(a)(3)	PTO not ISA or IPEA (Small Entity)	485	(⁴)
962	1.492(a)(4)	Claims—IPEA	96	(⁴)
963	1.492.(a)(4)	Claims—IPEA (Small Entity)	48	(⁴)
970	1.492(a)(5)	Filing with EPO or JPO search report	840	(⁴)
971	1.492(a)(5)	Filing with EPO or JPO search report (Small Entity)	420	(⁴)
964	1.492(b)	Claims—extra independent (over three)	78	(⁴)
965	1.492(b)	Claims—extra independent (over three) (Small Entity)	39	(⁴)
966	1.492(c)	Claims—extra total (over twenty)	18	(⁴)
967	1.492(c)	Claims—extra total (over twenty) (Small Entity)	9	(⁴)
968	1.492(d)	Claims—multiple dependent	260	(⁴)
969	1.492(d)	Claims—multiple dependent (Small Entity)	130	(⁴)
154	1.492(e)	Surcharge	130	(⁴)
254	1.492(e)	Surcharge (Small Entity)	65	(⁴)
156	1.492(f)	English translation after twenty or thirty months	130	(⁴)
361	2.6(a)(1)	Application for registration, per class	245	² \$325
362	2.6(a)(2)	Amendment to Allege Use, per class	100	(⁴)
363	2.6(a)(3)	Statement of Use, per class	100	(⁴)
364	2.6(a)(4)	Extension for filing Statement of Use, per class	100	² 150
365	2.6(a)(5)	Application for renewal, per class	300	² 400
366	2.6(a)(6)	Additional fee for late renewal, per class	100	(⁴)
367	2.6(a)(7)	Publication of mark under § 12(c), per class	100	(⁴)
368	2.6(a)(8)	Issuing new certificate of registration	100	(⁴)
369	2.6(a)(9)	Certificate of correction, registrant's error	100	(⁴)
370	2.6(a)(10)	Filing disclaimer to registration	100	(⁴)
371	2.6(a)(11)	Filing amendment to registration	100	(⁴)
372	2.6(a)(12)	Filing section 8 affidavit, per class	100	(⁴)
373	2.6(a)(13)	Filing section 15 affidavit, per class	100	² 200
381	2.6(a)(14)	Filing a section 8 affidavit during the grace period, per class	(⁴)	³ 100
375	2.6(a)(15)	Petition to the Commissioner	100	(⁴)
376	2.6(a)(16)	Petition for cancellation, per class	200	² 300
377	2.6(a)(17)	Notice of opposition, per class	200	² 300
378	2.6(a)(18)	Ex parte appeal, per class	100	(⁴)
379	2.6(a)(19)	Dividing an application, per new application created	100	(⁴)
382	2.6(a)(20)	Correcting a deficiency in a section 8 affidavit	(⁴)	³ 100
380	2.6(a)(21)	Correcting a deficiency in a renewal application	(⁴)	³ 100
461	2.6(b)(1)(i)	Copy of registered mark	3	(⁴)
462	2.6(b)(1)(ii)	Copy of registered mark, overnight delivery to PTO box or fax	6	(⁴)
463	2.6(b)(1)(iii)	Copy of reg. mark ordered by exp. mail or fax, exp. service	25	(⁴)
466	2.6(b)(2)(i)	Certified copy of trademark application as filed	15	(⁴)
467	2.6(b)(2)(ii)	Certified copy of trademark application as filed, expedited	30	(⁴)
468	2.6(b)(3)	Cert. or uncert. copy of TM-related file wrapper and contents	50	(⁴)
464	2.6(b)(4)(i)	Cert. copy of registered mark, with title or status	15	(⁴)
465	2.6(b)(4)(ii)	Cert. copy of registered mark, with title or status—expedited	30	(⁴)
469	2.6(b)(5)	Certified or uncertified copy of trademark document	25	(⁴)
481	2.6(b)(6)	Recording trademark property, per mark, per document	40	(⁴)
482	2.6(b)(6)	For second and subsequent marks in the same document	25	(⁴)
470	2.6(b)(7)	For assignment records, abstracts of title and certification	25	(⁴)
488	2.6(b)(8)	X-SEARCH terminal session time, per hour	40	(⁴)
480	2.6(b)(9)	Self-service copy charge, per page	0.25	(⁴)
484	2.6(b)(10)	Labor charges for services, per hour or fraction thereof	40	(⁴)
485	2.6(b)(11)	Unspecified other services, excluding labor	(⁵)	(⁴)
650	2.7(a)	Recordal application fee	20	(⁴)
651	2.7(b)	Renewal application fee	20	(⁴)
652	2.7(c)	Late fee for renewal application	20	(⁴)

¹ Fees effective on December 29, 1999.² Fees effective on January 10, 2000.³ Fees effective on 10/30/99 due to Trademark Law Treaty Implementation Act of 1998 (Pub. L. 105–330).⁴ Fees remain at FY 1999 amount.⁵ Actual cost.

[FR Doc. 99-31373 Filed 12-2-99; 8:45 am]

BILLING CODE 3510-16-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-6484-2]

RIN 2060-AH88

Final Rule To Extend the Stay of Action on Section 126 Petitions for Purposes of Reducing Interstate Ozone Transport

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Today, EPA is taking final action to extend the temporary stay of the effective date of the May 25, 1999 final rule (64 FR 28250) regarding petitions filed under section 126 of the Clean Air Act (CAA) until January 10, 2000. This stay provides EPA time to finalize its work on these petitions and publish its decision in the **Federal Register**. On June 24, 1999 (64 FR 33956) EPA issued an interim final rule that temporarily stayed the effective date of the May 25 final rule regarding petitions filed under section 126 of the CAA until November 30, 1999. This final action to extend the temporary stay will prevent the findings under section 126 from being triggered automatically on November 30, 1999, under the mechanism EPA established in the May 25 final rule.

EFFECTIVE DATE: This final rule is effective November 30, 1999.

ADDRESSES: Documents relevant to this action are available for inspection at the Air and Radiation Docket and Information Center (6102), Attention: Docket No. A-97-43, U.S. Environmental Protection Agency, 401 M Street SW, room M-1500, Washington, DC 20460, telephone (202) 260-7548 between 8:00 a.m. and 5:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Questions concerning today's action should be addressed to Carla Oldham, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, MD-15, Research Triangle Park, NC, 27711, telephone (919) 541-3347, e-mail at oldham.carla@epa.gov.

SUPPLEMENTARY INFORMATION:

Availability of Related Information

The official record for the May 25, 1999 section 126 rulemaking, as well as the public version of the record, has been established under docket number A-97-43 (including comments and data submitted electronically as described below). The public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as confidential business information, is available for inspection from 8:00 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located at the address in **ADDRESSES** at the beginning of this document. In addition, the **Federal Register** rulemakings and associated documents are located at <http://www.epa.gov/ttn/rto/126>.

I. Background

A. Interim Final Rule To Stay Affirmative Technical Determinations Under Section 126 Petitions To Reduce Interstate Ozone Transport

On May 25, 1999 (64 FR 28250), EPA made final determinations that portions of the petitions filed by eight Northeastern States under section 126 of the CAA were technically meritorious. The petitions sought to mitigate what they described as significant transport of one of the main precursors of ground-level ozone, nitrogen oxides (NO_x), across State boundaries. Each petition specifically requested that EPA make a finding that certain stationary sources emit NO_x in violation of the CAA's prohibition on emissions that significantly contribute to nonattainment problems in the petitioning State.

On June 24, 1999 (64 FR 33956), EPA issued an interim final rule to temporarily stay the effectiveness of the May 25 final rule regarding the section 126 petitions until November 30, 1999. The purpose of the interim final rule was to provide EPA time to conduct notice-and-comment rulemaking addressing issues raised by two recent rulings of the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit). In one ruling in *American Trucking Assn., Inc., v. EPA*, 175 F.3d 1027 (D.C. Cir. 1999), the court remanded the 8-hour national ambient air quality standard (NAAQS) for ozone, which formed part of the underlying technical basis for certain of EPA's determinations under section 126. On October 29, 1999, the D.C. Circuit granted in part EPA's Petition for Rehearing and Rehearing En Banc (filed on June 28, 1999) in *American*

Trucking, and modified portions of its opinion addressing EPA's ability to implement the eight-hour standard. See *American Trucking*, 1999 WL 979463 (Oct. 29, 1999). The court denied the remainder of EPA's rehearing petition. *Id.* EPA continues to evaluate the effect of *American Trucking*, as modified by the D.C. Circuit's October 29, 1999 opinion and order. EPA expects, however, that the status of the eight-hour standard will be uncertain for some time to come. In a separate action, the D.C. Circuit granted a motion to stay the State implementation plan (SIP) submission deadlines established in a related EPA action, the NO_x SIP call (October 27, 1998 63 FR 57356). In the interim final rule, EPA explained why it would be contrary to the public interest for the May 25 rule to remain in effect while EPA conducted rulemaking to respond to issues raised by the court rulings. The reader should refer to the June 24, 1999 interim final rule (64 FR 33956) and May 25, 1999 final rule (64 FR 28250) for further details and background information.

B. Proposal To Amend the May 25, 1999 Final Rule

On June 24, 1999 (64 FR 33962), EPA proposed to amend two aspects of the May 25 final rule. The EPA proposed to stay indefinitely the affirmative technical determinations based on the 8-hour standard pending further developments in the NAAQS litigation. The EPA also proposed to remove the trigger mechanism for making section 126 findings that was based on the NO_x SIP call deadlines and instead make the findings in a final rule to be issued in November 1999. In the June 24 proposal, EPA explained why it originally made sense to link the section 126 action to the NO_x SIP call and why EPA believes it is no longer appropriate to do so in the absence of a compliance schedule for the NO_x SIP call. At that time, the EPA indicated that it expected to promulgate the final rule based on the proposal by November 30, 1999, when the interim final rule would expire. To address the possibility that there could be a delay in amending the May 25 final rule, EPA requested comments in the June 24 proposal on extending the temporary stay beyond November 30 until EPA completed the final rule. The EPA noted that if additional time were needed, it would likely not be more than two or three months. Two commenters agreed that it would be appropriate for EPA to further extend the stay under such circumstances, while one commenter expressed concern that an extension of time would increase the likelihood of delay.