

(iii) Provides to each existing participant in a pool that the person elects to operate as described in paragraph (a)(3) or (a)(4) of this section a right to redeem the participant's interest in the pool, and informs each such participant of that right no later than the time the person commences to operate the pool as described in paragraph (a)(3) or (a)(4) of this section.

■ 8. In § 4.14, introductory text of paragraph (a) and introductory text of paragraph (a)(8) is republished and paragraph (a)(8)(iii)(A) introductory text and paragraphs (a)(8)(iii)(A)(3), (a)(8)(iii)(B) and (a)(8)(iii)(D) are revised to read as follows:

**§ 4.14 Exemption from registration as a commodity trading advisor.**

(a) A person is not required to register under the Act as a commodity trading advisor if:

(8) It is a registered as an investment adviser under the Investment Advisers Act of 1940 or with the applicable securities regulatory agency of any State, or it is exempt from such registration, or it is excluded from the definition of the term "investment adviser" pursuant to the provisions of section 202(a)(2) and 202(a)(11) of the Investment Advisers Act of 1940, *Provided, That:*

(iii)(A) A person who desires to claim the relief from registration provided by this § 4.14(a)(8) must file electronically a notice of exemption from commodity trading advisor registration with the National Futures Association through its electronic exemption filing system. The notice must:

(3) Be filed by a representative duly authorized to bind the person.  
(B) The person must file the notice by no later than the time it delivers an advisory agreement for the trading program pursuant to which it will offer commodity interest advice to a client; *Provided, That* where the advisor is registered with the Commission as a commodity trading advisor, it must notify its clients in written communication physically delivered or delivered through electronic transmission that it intends to withdraw from registration and claim the exemption and must provide each such client with a right to terminate its advisory agreement prior to the person filing a notice of exemption from registration.

(D) Each person who has filed a notice of exemption from registration under this section must, in the event that any of the information contained or representations made in the notice becomes inaccurate or incomplete, amend the notice electronically through National Futures Association's electronic exemption filing system as may be necessary to render the notice accurate and complete. This amendment must be filed within 15 business days after the trading advisor becomes aware of the occurrence of such event.

Issued in Washington, DC, on January 5, 2007 by the Commission.

Eileen A. Donovan,

*Acting Secretary of the Commission.*

[FR Doc. E7-174 Filed 1-12-07; 8:45 am]

BILLING CODE 6351-01-P

## DEPARTMENT OF COMMERCE

### United States Patent and Trademark Office

#### 37 CFR Part 1

[Docket No.: PTO-P-2005-0015]

RIN 0651-AB75

### Changes to Implement Priority Document Exchange Between Intellectual Property Offices

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

**ACTION:** Final rule.

**SUMMARY:** The United States Patent and Trademark Office (Office) has established a 21st Century Strategic Plan to transform the Office into a more quality-focused, highly productive, responsive organization supporting a market-driven intellectual property system. One goal of the 21st Century Strategic Plan is the electronic exchange of information and documents between intellectual property offices. Consistent with this goal, the Office is revising the rules of practice to provide for the electronic transfer of certified copies of applications for which priority is claimed under the Paris Convention (priority applications) from other intellectual property offices with which the Office has negotiated priority document exchange agreements. The Office is also revising the rules of practice to permit applicants to request that the Office permit other participating intellectual property offices to electronically retrieve certified copies of United States patent applications without payment of a fee.

This electronic exchange of copies of priority documents will benefit applicants by reducing the cost of ordering paper certified copies of priority applications for filing in other participating intellectual property offices, and will benefit participating intellectual property offices by reducing the administrative costs associated with handling paper copies of priority documents and scanning them into their electronic image record management systems.

**DATES:** *Effective Date:* January 16, 2007.

#### FOR FURTHER INFORMATION CONTACT:

Diana Oleksa, ((571) 272-3291), Legal Advisor for IT Policy, Office of Patent Cooperation Treaty Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy, or Robert A. Clarke ((571) 272-7735), Deputy Director, Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy, at [PatentEFW.comments@uspto.gov](mailto:PatentEFW.comments@uspto.gov) or directly by phone, or by facsimile to (571) 273-7735, marked to the attention of Ms. Oleksa, or by mail addressed to: Mail Stop Comments-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

**SUPPLEMENTARY INFORMATION:** The Office has established a 21st Century Strategic Plan to transform the Office into a more quality-focused, highly productive, responsive organization supporting a market-driven intellectual property system. One goal of the 21st Century Strategic Plan is the electronic exchange of information and documents between intellectual property offices. The Office plans to leverage its image file wrapper (IFW) technology by negotiating agreements with other patent offices to permit the Office to obtain and provide electronic copies of priority documents. *See* 35 U.S.C. 2(b)(6) (authorizes the Office, subject to certain conditions, to use the services, records, facilities, or personnel of any instrumentality or foreign patent and trademark office or international organization to perform functions on its behalf) and 11 (authorizes the Office to exchange copies of specifications and drawings of United States patents and published applications for patents for those of other NAFTA or WTO member countries). Agreements to obtain and provide such copies have been established with the European Patent Office (EPO) and its member states, and are being considered with the Japan Patent Office (JPO), both of which offices will have the technical ability to provide and retrieve certified electronic copies of priority documents via

automated mechanisms. An intellectual property office with which the Office has such an agreement will be referred to as a "participating intellectual property office."

Consistent with this goal, the Office is revising the rules of practice in title 37 of the Code of Federal Regulations (CFR) to provide for the electronic transfer of certified copies of priority documents from other intellectual property offices with which the Office has negotiated priority document exchange agreements. The Office is also revising the rules of practice to permit applicants to request that the Office permit other participating intellectual property offices to electronically retrieve certified copies of United States patent applications without payment of a fee. This electronic exchange of copies of priority documents will benefit applicants by reducing the cost of ordering paper certified copies of priority documents for filing in other participating intellectual property offices, and will benefit participating intellectual property offices by reducing the administrative costs associated with handling paper copies of priority applications and scanning them into electronic image record management systems.

This direct electronic exchange of copies of priority documents is an exception to the requirement that applicant must provide a certified copy of a counterpart foreign application to be entitled to a right of priority under 35 U.S.C. 119(a)–(d). The American Inventors Protection Act of 1999 (AIPA), Pub. L. 106–113, 113 Stat. 1501, 1501A–552 through 1501A–591 (1999), amended 35 U.S.C. 119(b) to (*inter alia*) provide that: "[t]he Director **may require** a certified copy of the original foreign application, specification, and drawings upon which it is based, a translation if not in the English language, and such other information as the Director considers necessary." See 35 U.S.C. 119(b)(3) (2000) (emphasis added). Prior to the enactment of the AIPA, 35 U.S.C. 119(b) required that a certified copy of the original foreign application be filed in the Office for an application to be entitled to a right of priority under 35 U.S.C. 119(a)–(d). See 35 U.S.C. 119(b) (1994) ("[n]o application for patent shall be entitled to this right of priority unless a claim therefor and a certified copy of the original foreign application, specification, and drawings upon which it is based are filed in the Patent and Trademark Office before the patent is granted, or at such time during the pendency of the application as required by the Commissioner not earlier than six

months after the filing of the application in this country").

If an applicant makes a proper request and an electronic copy of the counterpart foreign application is imported from another participating intellectual property office by the Office, the obligation to provide a certified copy of the foreign application would be satisfied (although the applicant may be required to provide an English-language translation of a non-English language foreign application under certain circumstances or such other information as the Director considers necessary). The agreements would also permit another participating intellectual property office to obtain electronic copies of priority documents from the Office (at no charge to the applicant) when an applicant furnishes the Office with written authority or after the application has been published.

The agreements will enable a participating intellectual property office (e.g., the JPO, EPO, or the Office) to obtain an electronic copy of a priority document that was filed in another participating intellectual property office in accordance with the terms of the agreement. Likewise, the agreements will also enable a participating intellectual property office to obtain an electronic copy of a priority document that was filed in a non-participating intellectual property office from a participating intellectual property office in which a certified copy of the priority document has been filed and stored. The Office will provide forms for applicants to: (1) Request that the Office retrieve an electronic copy of an earlier filed foreign application (PTO/SB/38); and (2) permit other participating intellectual property offices to retrieve an electronic copy of an application filed in the Office (PTO/SB/39). Use of Office forms is strongly encouraged.

The first form (PTO/SB/38) will permit applicants to request that the Office retrieve an electronic copy of any foreign application filed in an intellectual property office participating with the Office in a direct agreement to retrieve electronic copies of priority documents. The foreign application may have been filed directly with the participating intellectual property office, in which case the applicant would merely request that the Office retrieve an electronic copy of the priority application for which priority was claimed. Alternatively, the applicant may request that the Office retrieve an electronic copy of a foreign application originally filed in a non-participating intellectual property office that is stored in a patent application file in a participating intellectual property

office. The Office intends to post a notification of such agreements in the *Official Gazette* including the date when applicants may take advantage of these agreements and any special provisions made in the agreement. If the foreign application was originally filed in a non-participating intellectual property office, but is stored in an application file or dossier of a participating intellectual property office, the request form must indicate the participating intellectual property office application number which contains the certified copy of the foreign application.

Upon receipt of a timely filed request, the Office anticipates that at least two attempts will be made to retrieve a copy of the foreign application from the participating office. Applicants should consult the private Patent Application Information Retrieval (PAIR) system to determine if the copy of the foreign application was retrieved by the Office. Applicants are encouraged to contact the Electronic Business Center, rather than the examiner, if the counterpart foreign application has not been entered in the application file.

The copy of the counterpart foreign application retrieved by the Office will be included in the Office's IFW system records pertaining to the application for which the counterpart foreign application was requested. Applicants will be able to inspect the counterpart foreign application through the private PAIR system. In addition, once the application has been published under 35 U.S.C. 122(b) or issued as a patent, any member of the public will be able to inspect the counterpart foreign application through the public PAIR system.

The second form (PTO/SB/39) would be used to provide the Office with written authority to provide a copy of a patent application to participating foreign intellectual property offices at no cost to the applicant. Such written authority would be treated as authorizing the Office to provide the participating intellectual property offices indicated in the written authority with a copy of the application-as-filed as well as a copy of the application-as-filed of its parent applications stored in electronic image form. Once an application is published under 35 U.S.C. 122(b), the application is open to the public and therefore the applicant's written authority is not necessary to permit other participating intellectual property offices to retrieve a certified copy of the priority application or a copy of the complete application file.

## Discussion of Specific Rules

### Section 1.14

Sections 1.14(a)(1)(iii), (a)(1)(v), (a)(1)(vi), and (a)(1)(vii) are amended to change their reference to § 1.14(h) to a reference to § 1.14(i) for consistency with the redesignating of § 1.14(h) as § 1.14(i).

Section 1.14(a)(2) is amended to add “in a published patent document or in an application as set forth” to more clearly explain that the Office will provide information about a patent application if the application is identified in a published patent document such as a patent document of a foreign intellectual property office.

Section 1.14(b) is amended to delete the reference to “paragraphs (a)(1)(i) through (a)(1)(vi)”. The reference to the specific paragraphs in § 1.14 that define when an application may be made available is not necessary, and the reference to only paragraphs (a)(1)(i) through (a)(1)(vi) is overly limiting as the Office may elect to only provide electronic access in other situations as well (e.g., where the application is maintained in the IFW system and has been published, the file may be made available through the public PAIR system).

Current § 1.14(h) is redesignated as § 1.14(i), and a new § 1.14(h) is added. New § 1.14(h) defines under what circumstances an electronic copy of an application-as-filed may be retrieved from the Office by a participating intellectual property office. Section 1.14(h)(1) indicates that access to an application-as-filed may be provided to any participating foreign intellectual property office if the application contains written authority granting such access. The Office will publish a list of participating foreign intellectual property offices in the *Official Gazette*. In addition, § 1.14(h)(1) would indicate that the written authority should be submitted prior to the filing of a subsequent foreign application, in which priority is claimed to the patent application, with a participating intellectual property office. The written authority should be submitted prior to the filing of a subsequent foreign application to ensure that it is likely that the authorized participating foreign intellectual property office will be successful in its attempt to retrieve a copy of the priority application from the Office. However, a participating foreign intellectual property office would be able to retrieve an electronic copy of a priority application from the Office at no cost to the applicant without written authority if the application was published before a request for a copy of

the priority application was received by the Office.

Section 1.14(h)(2) indicates that the written authority must include the title of the invention (§ 1.71(a)), comply with the requirements of § 1.14(c), and be submitted on a separate document (§ 1.4(c)). Accordingly, § 1.14(h)(2) requires the written authority to be signed by: (1) an applicant; (2) an attorney or agent of record; (3) an authorized official of an assignee of record, made of record pursuant to § 3.71 of this chapter; or (4) a registered attorney or agent named in the papers accompanying the application papers filed under § 1.53 or the national stage documents filed under § 1.495, if an executed oath or declaration pursuant to § 1.63 or § 1.497 has not been filed.

Section 1.14(h)(3) indicates that written authority provided under § 1.14(h)(1) will be treated as authorizing the Office to provide the participating foreign intellectual property offices indicated in the written authority: (1) A copy of the application-as-filed; and (2) a copy of the application-as-filed for any application the filing date of which is claimed by the application in which the written authority has been filed.

### Section 1.19

Section 1.19(b)(1)(iv) is added to indicate there is no fee for providing a foreign intellectual property office with a copy of an application as filed pursuant to a priority document exchange agreement (*see* § 1.14(h)).

### Section 1.55

Section 1.55(d) is added to permit the acceptance of an electronic copy of a counterpart foreign application under 35 U.S.C. 119(b) or Patent Cooperation Treaty (PCT) Rule 17 received from a participating intellectual property office, as an alternative to requiring the certified copy of such foreign application from the applicant. If the foreign application was filed in a participating intellectual property office and the applicant requests, in a separate document, that the Office obtain a copy of the foreign application from the participating intellectual property office, the Office will attempt to do so. If the Office is successful in its attempt to retrieve the electronic copy before the patent is granted, the applicant would be relieved of the existing duty to provide a certified copy of the foreign application. The applicant can confirm that the Office has received a copy of the foreign application by viewing the records in the private PAIR system.

Section 1.55(d) also indicates that a copy of a foreign application obtained from a participating intellectual property office, where the foreign

application was filed in a non-participating intellectual property office, will also be considered to satisfy the certified copy requirement. Thus, for example, an electronic copy of a foreign application from a participating intellectual property office will be considered to satisfy the requirement for a “certified copy of the foreign application” under § 1.55 if an applicant: (1) Files a foreign application in a non-participating intellectual property office; (2) files a copy of the foreign application in a participating intellectual property office; (3) files a U.S. application with a proper request under § 1.55(d); and (4) the Office obtains an electronic copy of the foreign application from the participating intellectual property office.

Section 1.55(d) is an exception to the existing certified copy requirement. Section 1.55(d)(1) addresses the situation where the foreign application was filed in a participating foreign intellectual property office. Sections 1.55(d)(1)(i) through (d)(1)(iii) define under what circumstances a copy of a foreign application, obtained in accordance with an international agreement from a participating foreign intellectual property office, is an acceptable alternative to the current procedure of filing a certified copy of the foreign application. Section 1.55(d)(1)(i) indicates that, in order to take advantage of the international agreement, the applicant must file, in a separate document, a request that the Office obtain a copy of the foreign application from a participating foreign intellectual property office. A request form (PTO/SB/38) will be provided on the Office's Internet Web site for this purpose. Section 1.55(d)(1)(ii) indicates that the foreign application must be identified in the oath or declaration (§ 1.63(c)) or an application data sheet (§ 1.76(a)(6)). Section 1.55(d)(1)(iii) indicates that the Office must receive the copy before the patent is granted (consistent with the general rule in § 1.55(a)(2)). Section 1.55(d)(1)(iii) also indicates that the request should be made within the later of four months from the filing date of the application or sixteen months from the filing date of the foreign application in order to facilitate receipt of the copy of the foreign application by the Office before patent grant.

Section 1.55(d)(2) addresses the situation where the foreign application was originally filed in a non-participating foreign intellectual property office, but a copy of the foreign application was filed in an application subsequently filed in a participating foreign intellectual property office.

Under these circumstances, the request under § 1.55(d)(1)(i) must identify the participating foreign intellectual property office and the application number of the subsequent application in which the copy of the foreign application was filed. It is envisioned that the agreement with certain participating intellectual property offices may obviate the need for this information in the future.

This change to § 1.55 does not affect the requirement in § 1.55(a)(4) that applicant provide an English language translation of a non-English language foreign application (together with a statement that the translation of the certified copy is accurate) when the application is involved in an interference (§ 1.630), when necessary to overcome the date of a reference relied upon by the examiner, or when specifically required by the examiner.

### Rule Making Considerations

#### *Administrative Procedure Act*

This notice adopts changes to the rules of practice that facilitate electronic image record management of patent application files. The changes are limited to permitting and facilitating direct exchange of priority documents among intellectual property offices. Therefore, these rule changes involve interpretive rules, or rules of agency practice and procedure. *See Bachow Communications Inc. v. FCC*, 237 F.3d 683, 690 (D.C. Cir. 2001) (rules governing an application process are “rules of agency organization, procedure, or practice” and exempt from the Administrative Procedure Act’s notice and comment requirement); *see also Merck & Co., Inc. v. Kessler*, 80 F.3d 1543, 1549–50, 38 USPQ2d 1347, 1351 (Fed. Cir. 1996) (the rules of practice promulgated under the authority of former 35 U.S.C. 6(a) (now in 35 U.S.C. 2(b)(2)) are not substantive rules (to which the notice and comment requirements of the Administrative Procedure Act apply)), and *Fressola v. Manbeck*, 36 USPQ2d 1211, 1215 (D.D.C. 1995) (“it is extremely doubtful whether any of the rules formulated to govern patent or trade-mark practice are other than ‘interpretive rules, general statements of policy, \* \* \* procedure, or practice.’”) (quoting C.W. Ooms, *The United States Patent Office and the Administrative Procedure Act*, 38 Trademark Rep. 149, 153 (1948)). Accordingly, prior notice and an opportunity for public comment were not required pursuant to 5 U.S.C. 553(b)(A) (or any other law), and thirty-day advance publication is not required

pursuant to 5 U.S.C. 553(d) (or any other law).

#### *Regulatory Flexibility Act*

As discussed previously, the changes in this final rule involve rules of agency practice and procedure under 5 U.S.C. 553(b)(A), and prior notice and an opportunity for public comment were not required pursuant to 5 U.S.C. 553(b)(A) (or any other law). As prior notice and an opportunity for public comment were not required pursuant to 5 U.S.C. 553 (or any other law) for the changes in this final rule, a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is not required for the changes in this final rule. *See* 5 U.S.C. 603.

#### *Executive Order 13132*

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

#### *Executive Order 12866*

This rulemaking has been determined to be not significant for purposes of Executive Order 12866 (Sept. 30, 1993).

#### *Paperwork Reduction Act*

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 *et seq.*). The collection of information involved in this final rule have been previously reviewed and approved by OMB under control number 0651–0031.

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

Interested persons are requested to send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10202, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Officer for the Patent and Trademark Office; and (2) Robert J. Spar, Director, Office of Patent Legal Administration, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a

collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

### List of Subjects in 37 CFR Part 1

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

■ For the reasons set forth in the preamble, 37 CFR part 1 is 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), unless otherwise noted.

■ 2. Section 1.14 is amended by revising paragraph (a)(1)(iii), (a)(1)(v), (a)(1)(vi), (a)(1)(vii), the introductory text of paragraph (a)(2), and paragraph (b), redesignating paragraph (h) as paragraph (i), and adding a new paragraph (h) to read as follows:

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

(a) \* \* \*

(1) \* \* \*

(iii) *Published pending applications.*

A copy of the application-as-filed, the file contents of the application, or a specific document in the file of a pending application that has been published as a patent application publication may be provided to any person upon request, and payment of the appropriate fee set forth in § 1.19(b). If a redacted copy of the application was used for the patent application publication, the copy of the specification, drawings, and papers may be limited to a redacted copy. The Office will not provide access to the paper file of a pending application that has been published, except as provided in paragraph (c) or (i) of this section.

\* \* \* \* \*

(v) *Unpublished pending applications (including provisional applications) whose benefit is claimed.* A copy of the file contents of an unpublished pending application may be provided to any person, upon written request and payment of the appropriate fee (§ 1.19(b)), if the benefit of the application is claimed under 35 U.S.C. 119(e), 120, 121, or 365 in an application that has issued as a U.S. patent, an application that has published as a statutory invention registration, a U.S. patent application

publication, or an international patent application publication that was published in accordance with PCT Article 21(2). A copy of the application-as-filed, or a specific document in the file of the pending application may also be provided to any person upon written request, and payment of the appropriate fee (§ 1.19(b)). The Office will not provide access to the paper file of a pending application, except as provided in paragraph (c) or (i) of this section.

(vi) *Unpublished pending applications (including provisional applications) that are incorporated by reference or otherwise identified.* A copy of the application as originally filed of an unpublished pending application may be provided to any person, upon written request and payment of the appropriate fee (§ 1.19(b)), if the application is incorporated by reference or otherwise identified in a U.S. patent, a statutory invention registration, a U.S. patent application publication, or an international patent application publication that was published in accordance with PCT Article 21(2). The Office will not provide access to the paper file of a pending application, except as provided in paragraph (c) or (i) of this section.

(vii) *When a petition for access or a power to inspect is required.* Applications that were not published or patented, that are not the subject of a benefit claim under 35 U.S.C. 119(e), 120, 121, or 365 in an application that has issued as a U.S. patent, an application that has published as a statutory invention registration, a U.S. patent application publication, or an international patent application publication that was published in accordance with PCT Article 21(2), or are not identified in a U.S. patent, a statutory invention registration, a U.S. patent application publication, or an international patent application that was published in accordance with PCT Article 21(2), are not available to the public. If an application is identified in the file contents of another application, but not the published patent application or patent itself, a granted petition for access (see paragraph (i)), or a power to inspect (see paragraph (c)) is necessary to obtain the application, or a copy of the application.

(2) Information concerning a patent application may be communicated to the public if the patent application is identified in a published patent document or in an application as set forth in paragraphs (a)(1)(i) through (a)(1)(vi) of this section. The information that may be communicated

to the public (*i.e.*, status information) includes:

\* \* \* \* \*

(b) *Electronic access to an application.* Where a copy of the application file or access to the application may be made available pursuant to this section, the Office may at its discretion provide access to only an electronic copy of the specification, drawings, and file contents of the application.

\* \* \* \* \*

(h) *Access by a Foreign Intellectual Property Office.* (1) Access to the 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 under this paragraph should be submitted prior to filing a subsequent foreign application with a participating intellectual property office in which priority is claimed to the patent application.

(2) Written authority provided under paragraph (h)(1) of this section must include the title of the invention (§ 1.71(a)), comply with the requirements of paragraph (c) of this section, and be submitted on a separate document (§ 1.4(c)).

(3) Written authority provided under paragraph (h)(1) of this section will be treated as authorizing the Office to provide to all participating foreign intellectual property offices indicated in the written authority in accordance with their respective agreements with the Office:

(i) A copy of the application-as-filed; and

(ii) A copy of the application-as-filed with respect to any application the filing date of which is claimed by the application in which written authority under paragraph (h)(1) of this section is filed.

\* \* \* \* \*

■ 3. Section 1.19 is amended by adding 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 priority document exchange agreement (see § 1.14(h)(1)) ..... 0.00

\* \* \* \* \*

■ 4. Section 1.55 is amended by adding a new paragraph (d) to read as follows:

**§ 1.55 Claim for foreign priority.**

\* \* \* \* \*

(d)(1) The requirement in this section for the certified copy of the foreign application will be considered satisfied if:

(i) The applicant files a request, in a separate document, that the Office obtain a copy of the foreign application from a foreign intellectual property office participating with the Office in a bilateral or multilateral priority document exchange agreement (participating foreign intellectual property office (see § 1.14(h)(1));

(ii) The foreign application is identified in the oath or declaration (§ 1.63(c)) or an application data sheet (§ 1.76(a)(6)); and

(iii) The copy of the foreign application is received by the Office within the period set forth in paragraph (a) of this section. Such a request should be made within the later of four months from the filing date of the application or sixteen months from the filing date of the foreign application.

(2) If the foreign application was filed at a foreign intellectual property office that is not participating with the Office in a priority document exchange agreement, but a copy of the foreign application was filed in an application subsequently filed in a participating foreign intellectual property office, the request under paragraph (d)(1)(i) of this section must identify the participating foreign intellectual property office and the application number of the subsequent application in which a copy of the foreign application was filed.

Dated: December 18, 2006.

**Jon W. Dudas,**

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

[FR Doc. E7-113 Filed 1-9-07; 8:45 am]

**BILLING CODE 3510-16-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 62**

**[Docket No. EPA-R02-OAR-2006-0615, FRL-8268-9]**

**Approval and Promulgation of Plans for Designated Facilities; New Jersey; Delegation of Authority**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a request from the New Jersey Department of