

under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

#### PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

##### § 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

**Boeing:** Docket 99–NM–365–AD.

**Applicability:** Model 767 series airplanes powered by Pratt & Whitney engines, line numbers 1 through 663 inclusive, certificated in any category.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

**Compliance:** Required as indicated, unless accomplished previously.

To prevent fatigue cracking in primary strut structure and consequent reduced structural integrity of the strut, accomplish the following:

#### Modifications

(a) When the airplane has reached the flight cycle threshold as defined by the flight cycle threshold formula on page 67 of Boeing Service Bulletin 767–54–0080, dated October 7, 1999, or within 20 years since the date of manufacture, whichever occurs first: Modify the nacelle strut and wing structure on both the left and right sides of the airplane, in accordance with the service bulletin. Use of the flight cycle threshold formula described

on page 67 of the service bulletin is an acceptable alternative to the 20-year threshold, provided the conditions described in paragraphs 1 and 2 of page 67 have been met.

(b) Prior to or concurrently with the accomplishment of the modification of the nacelle strut and wing structure required by paragraph (a) of this AD; as specified in paragraph 1.D., Table 2, on page 8 of Boeing Service Bulletin 767–54–0080, dated October 7, 1999; accomplish the actions specified in Boeing Service Bulletins 767–53–0069, Revision 1, dated January 29, 1998; 767–54–0083, dated September 17, 1998; 767–54–0088, Revision 1, dated July 29, 1999; 767–54A0094, Revision 1, dated September 16, 1999; 767–57–0053, Revision 2, dated September 23, 1999; and 767–29–0057, dated December 16, 1993, including Notice of Status Change NSC 1, dated November 23, 1994; as applicable; in accordance with those service bulletins. Accomplishment of this paragraph constitutes terminating action for the repetitive inspections required by AD 94–11–02, amendment 39–8918, and AD 99–07–06, amendment 39–11091.

**Note 2:** Paragraph (b) of this AD specifies prior or concurrent accomplishment of Boeing Service Bulletin 767–57–0053, Revision 2, dated September 23, 1999; however, Table 2, on page 8 of Boeing Service Bulletin 767–54–0080, dated October 7, 1999, specifies prior or concurrent accomplishment of the original issue of the service bulletin. Therefore, accomplishment of the applicable actions specified in Boeing Service Bulletin 767–57–0053, dated June 27, 1996, or Revision 1, dated October 31, 1996, prior to the effective date of this AD, is considered acceptable for compliance with the actions required by paragraph (b) of this AD.

#### Repair

(c) If any damage to airplane structure is found during the accomplishment of the modification required by paragraph (a) of this AD; and the service bulletin specifies to contact Boeing for appropriate action: Prior to further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

#### Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

#### Special Flight Permits

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on July 3, 2000.

**Vi L. Lipski,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 00–17302 Filed 7–7–00; 8:45 am]

**BILLING CODE 4910–13–U**

## DEPARTMENT OF COMMERCE

### United States Patent and Trademark Office

#### 37 CFR Part 1

**RIN 0651–AB19**

#### Treatment of Unlocatable Application and Patent Files

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The United States Patent and Trademark Office is proposing to amend the rules of practice to provide for the replacement of application and patent files that cannot be located after a reasonable search. This change is designed to expedite the process of application and patent file reconstruction to minimize the processing or examination delays resulting when the Office cannot locate an application or patent file after a reasonable search.

**DATES:** *Comment Deadline Date:* To be ensured of consideration, written comments must be received on or before August 9, 2000. No public hearing will be held.

**ADDRESSES:** Comments should be sent by electronic mail message over the Internet addressed to: [reconstruct.comments@uspto.gov](mailto:reconstruct.comments@uspto.gov). Comments may also be submitted by mail addressed to: Box Comments—Patents, Commissioner for Patents, Washington, DC 20231; or by facsimile to (703) 872–9411, marked to the attention of Robert W. Bahr. Although comments may be submitted by mail or facsimile, the Office prefers to receive comments via the Internet. If comments are submitted by mail, the Office would prefer that the comments be submitted on a DOS formatted 3½ inch disk accompanied by a paper copy.

The comments will be available for public inspection at the Office of Patent

Legal Administration in the Office of the Deputy Commissioner for Patent Examination Policy, Room 3-C23 of Crystal Plaza 4, 2201 South Clark Place, Arlington, Virginia, and will be available through anonymous file transfer protocol (ftp) via the Internet (address: <http://www.uspto.gov>). Since comments will be made available for public inspection, information that is not desired to be made public, such as an address or phone number, should not be included in the comments.

**FOR FURTHER INFORMATION CONTACT:**

Robert W. Bahr by telephone at (703) 308-6906, or by mail addressed to: Box Comments—Patents, Commissioner for Patents, Washington, DC 20231, or by facsimile to (703) 872-9411, marked to the attention of Robert W. Bahr.

**SUPPLEMENTARY INFORMATION:** Over 330,000 patent applications (provisional and nonprovisional) were filed in the United States Patent and Trademark Office (Office) in fiscal year 1999. On occasion, an application or patent file cannot be located.

When an application or patent file cannot be located after a reasonable search and the application or patent file is necessary to conduct business before the Office, the Office will “reconstruct” the application or patent file. This involves placing a duplicate of the original application papers and duplicates of all of the correspondence between the Office and applicant or patentee in a new file wrapper. The Office currently (since the spring of 1997) uses its Patent Application Capture and Review (PACR) system to image scan the application papers submitted on the filing date of the application (except for any appendix or information disclosure statement) and to create an electronic database (PACR database) containing the Office’s archival record of the original application papers (application papers were microfilmed prior to the spring of 1997). Thus, the Office can obtain a copy of the original application papers from its archival PACR database (or microfilm records). The Office, however, does not possess a duplicate copy of subsequent correspondence from the applicant or patentee (e.g., applicant replies or other papers) concerning the application or patent. While the Office may have a copy of some Office correspondence (Office actions saved on a disc or computer hard drive), the Office often does not possess a complete copy of the Office correspondence concerning the application or patent (e.g., paper-based forms or notices). Thus, to accurately reconstruct a file, the Office must

request that the applicant or patentee either provide a complete copy of his or her record of the correspondence between the Office and the applicant or patentee, or produce his or her record of the correspondence between the Office and the applicant or patentee for the Office to copy.

In a pending application, the request that applicant provide a copy of (or produce) his or her record of the correspondence between the Office and the applicant does not, under current practice, require a reply within any set time period. This adds to the delay in processing and examination resulting from the inability to locate the application. To expedite the process of reconstructing the file of an application or patent file, the Office is proposing to amend the rules of practice to provide that the Office will now set a time period within which applicant or patentee must either provide a complete copy of his or her record of the correspondence between the Office and the applicant or patentee, or produce his or her record of the correspondence between the Office and the applicant or patentee for the Office to copy. Since it is axiomatic that the Office cannot continue to examine an application that it does not have a complete copy of, the failure to timely provide a copy of (or produce) his or her record of the correspondence between the Office and the applicant in a pending application will result in abandonment of the application.

Corresponding with an applicant or patentee in an abandoned application or patent is often difficult because address information is often not kept up-to-date in abandoned applications and patents. There are many good reasons for keeping correspondence information up-to-date in an abandoned application or patent. Some examples follow: Patent applicants and patent owners should keep the correspondence address and any fee address for the patent up-to-date to ensure that correspondence is mailed to applicant’s or patentee’s current address. In an abandoned application, the Office may attempt to communicate with applicant regarding a petition for access. If the address has not been updated, then the Office may not be able to consider applicant’s views in deciding whether to release the application to a member of the public. The Customer Number Practice described in section 403 of the Manual of Patent Examining Procedure (7th ed. 1998) (Rev. 1, Feb. 2000) (MPEP) provides a procedure where a patent applicant or owner can easily change the correspondence address for a number of patents or patent

applications. In addition, the “Fee Address” Indication Form (PTO/SB/47) (reproduced at MPEP 2595) enables a patent owner to complete one form to designate a single fee address for any number of patents or applications in which the issue fee has been paid.

When changing the address(es) associated with a patent, the patent owner should bear in mind that the Office has a number of addresses related to the patent: (1) An application correspondence address; (2) the return address for the assignment documents; and (3) the fee address for maintenance fee purposes. See MPEP 2540. The correspondence address is generally the address to which the patent application prosecution was sent and is often not up-to-date within a few years of patent issuance. As a result, the regulations related to reexamination proceedings require that a patent owner be served with a copy of a Reexamination Request at the Office of Enrollment and Discipline address for the attorney or agent of record, if there is an attorney or agent of record. See MPEP 2220. If there is no attorney or agent of record, the copy is required to be served upon the patent owner. See § 1.33(c). In the procedure to obtain a copy of a patent file set forth in this notice, the request will be directed to the correspondence address.

The Office is planning for full electronic submission of applications and related documents by fiscal year 2003. Once the Office is able to transition to a total Electronic File Wrapper environment, the inability to locate a paper application file (and the consequent need for the Office to obtain a copy of applicant’s or patentee’s record of the correspondence between the Office and the applicant or patentee) should no longer be a significant issue. However, this rule change is necessary to provide for the replacement of unlocatable application and patent files until the Office has completely transitioned to a total Electronic File Wrapper environment.

**Discussion of Specific Rules**

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

Section 1.251 is proposed to be added to set forth a procedure for the reconstruction of the file of a patent application, patent, or other patent-related proceeding that cannot be located after a reasonable search.

Section 1.251(a) provides that in the event the Office cannot locate the file of an application, patent, or other patent-related proceeding after a reasonable search, the Office will notify the

applicant or patentee and set a time period within which the applicant or patentee must comply with § 1.251(b). The phrase "an application" applies to any type of application (national or international), and regardless of the status (pending or abandoned) of the application.

Section 1.251(b) provides that if an applicant or patentee has been given notice under § 1.251(a) that the Office cannot locate the file of a patent, application, or other patent-related proceeding after a reasonable search, applicant or patentee must do one of the following within the time period set in the notice: (1) Provide a copy of his or her record of all of the correspondence between the Office and the applicant or patentee for such application, patent, or other proceeding, a list of such correspondence, and a statement that the copy is a complete and accurate copy of the correspondence between the Office and the applicant or patentee for such application, patent, or other proceeding; or (2) produce his or her record of all of the correspondence between the Office and the applicant or patentee for such application, patent, or other proceeding for the Office to copy, and provide a statement that the papers are a complete and accurate record of the correspondence between the Office and the applicant or patentee for such application, patent, or other proceeding. Any appendix or information disclosure statement submitted with an application is not contained in the Office's archival PACR database; therefore, the applicant or patentee must also provide a copy of any appendix or information disclosure statement submitted with the application.

Section 1.251(b) also provides for the situation in which an applicant or patentee does not possess a complete copy of the correspondence between the Office and the applicant or patentee. In such a situation, the applicant or patentee must provide: (1) A copy of his or her record (if any) of the correspondence between the Office and the applicant or patentee for such application, patent, or other proceeding; (2) a list of such correspondence; and (3) a statement that applicant or patentee does not possess a complete copy of the correspondence between the Office and the applicant or patentee for such application, patent, or other proceeding and that the copy is a complete and accurate copy of his or her record of the correspondence between the Office and the applicant or patentee for such application, patent, or other proceeding.

Thus, if the applicant or patentee possesses some (but not all) of the correspondence between the Office and

the applicant or patentee for such application, patent, or other proceeding, the applicant or patentee is to reply by providing a copy of all the correspondence contained in applicant's or patentee's records. If applicant or patentee does not possess any record of the correspondence between the Office and the applicant or patentee for such application, patent, or other proceeding, the applicant or patentee is to reply with a statement to that effect.

Section 1.251(c) provides that with regard to a pending application, the failure to provide a timely reply to such a notice will result in abandonment of the application.

#### Classification

##### *Regulatory Flexibility Act*

As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 (or any other law), an initial regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is not required. See 5 U.S.C. 603.

##### *Executive Order 13132*

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

##### *Executive Order 12866*

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

##### *Paperwork Reduction Act*

This notice 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 notice has been submitted for approval by OMB under control number 0651-0031. The United States Patent and Trademark Office is resubmitting this information collection package to OMB for its review and approval because the changes in this notice affect the information collection requirements associated with that information collection package.

The title, description, and respondent description of this information collection is shown below with an estimate of the annual reporting burdens. Included in the estimate is the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information. The principal impact of the changes in this notice is to set forth the procedures for obtaining a copy of applicant's or

patentee's record of the correspondence between the Office and the applicant or patentee for an application, patent, or other proceeding when necessary to reconstruct the file of such application, patent, or other proceeding.

OMB Number: 0651-0031.

Title: Patent Processing (Updating).

Form Numbers: PTO/SB/08/21-27/31/42/43/61/62/63/64/67/68/91/92/96/97.

Type of Review: Approved through October of 2002.

Affected Public: Individuals or Households, business or other for-profit institutions, not-for-profit institutions and Federal Government.

Estimated Number of Respondents: 2,231,365.

Estimated Time Per Response: 0.46 hours.

Estimated Total Annual Burden Hours: 1,018,736 hours.

Needs and Uses: During the processing for an application for a patent, the applicant/agent may be required or desire to submit additional information to the United States Patent and Trademark Office concerning the examination of a specific application. The specific information required or which may be submitted includes: Information Disclosure Statements; Terminal Disclaimers; Petitions to Revoke; Express Abandonments; Appeal Notices; Petitions for Access; Powers to Inspect; Certificates of Mailing or Transmission; Statements under § 3.73(b); Amendments, Petitions and their Transmittal Letters; and Deposit Account Order Forms.

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

Interested persons are requested to send comments regarding these information collections, including suggestions for reducing this burden, to Robert J. Spar, Director, Office of Patent Legal Administration, United States Patent and Trademark Office, Washington, D.C. 20231, or to the Office of Information and Regulatory Affairs, OMB, 725 17th Street, N.W., Washington, D.C. 20503 (Attn: Desk Officer for the United States Patent and Trademark Office).

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

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

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

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

For the reasons set forth 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 1.251 is added immediately following § 1.248 to read as follows:

#### § 1.251 Unlocatable file.

(a) In the event that the Office cannot locate the file of an application, patent, or other patent-related proceeding after a reasonable search, the Office will notify the applicant or patentee and set a time period within which the applicant or patentee must comply with one of paragraphs (b)(1), (b)(2), or (b)(3) of this section.

(b) If an applicant or patentee has been given notice under paragraph (a) of this section that the Office cannot locate the file of a patent, application, or other patent-related proceeding after a reasonable search, applicant or patentee must do one of the following within the time period set in the notice:

(1) Provide a copy of the applicant's or patentee's record of all of the correspondence between the Office and the applicant or patentee for such application, patent, or other proceeding, a list of such correspondence, and a statement that the copy is a complete and accurate copy of the correspondence between the Office and the applicant or patentee for such application, patent, or other proceeding;

(2) Produce the applicant's or patentee's record of all of the correspondence between the Office and the applicant or patentee for such application, patent, or other proceeding for the Office to copy, and provide a statement that the copy is a complete and accurate copy of the correspondence between the Office and the applicant or patentee for such application, patent, or other proceeding; or

(3) If applicant or patentee does not possess a complete copy of the correspondence between the Office and the applicant or patentee for such

application, patent, or other proceeding, provide a copy of the applicant's or patentee's record (if any) of the correspondence between the Office and the applicant or patentee for such application, patent, or other proceeding, a list of such correspondence, and a statement that applicant or patentee does not possess a complete copy of the correspondence between the Office and the applicant or patentee for such application, patent, or other proceeding and that the copy provided is a complete and accurate copy of applicant's or patentee's record of the correspondence between the Office and the applicant or patentee for such application, patent, or other proceeding.

(c) With regard to a pending application, failure to timely comply with one of paragraphs (b)(1), (b)(2), or (b)(3) of this section will result in abandonment of the application.

Dated: June 30, 2000.

**Q. Todd Dickinson,**

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

[FR Doc. 00-17182 Filed 7-7-00; 8:45 am]

**BILLING CODE 3510-16-U**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[RI-042-01-6990b; A-1-FRL-6727-8]

#### Approval and Promulgation of Air Quality Implementation Plans; New Hampshire, Rhode Island, and Vermont; Aerospace Negative Declarations

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve negative declarations submitted by the States of New Hampshire, Rhode Island, and Vermont for aerospace coating operations. In the Final Rules section of this **Federal Register**, EPA is approving the State's submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this

proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

**DATES:** Written comments must be received on or before August 9, 2000.

**ADDRESSES:** Comments may be mailed to David Conroy, Unit Manager, Air Quality Planning, Office of Ecosystem Protection (mail code CAQ), U.S. Environmental Protection Agency, EPA New England, One Congress Street, Suite 1100, Boston, MA 02114-2023. Copies of the States submittals are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England, One Congress Street, 11th floor, Boston, MA 02114-2023. Copies of New Hampshire's submittal are also available at Air Resources Division, Department of Environmental Services, 6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095. Copies of Rhode Island's submittal are also available at Office of Air Resources, Department of Environmental Management, 235 Promenade Street, Providence, RI 02908-5767. Copies of Vermont's submittal are also available Air Pollution Control Division, Agency of Natural Resources, Building 3 South, 103 South Main Street, Waterbury, VT 05676.

#### FOR FURTHER INFORMATION CONTACT:

Anne E. Arnold, (617) 918-1047.

**SUPPLEMENTARY INFORMATION:** For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: June 12, 2000.

**Mindy S. Lubber,**

*Regional Administrator, EPA New England.*

[FR Doc. 00-16627 Filed 7-7-00; 8:45 am]

**BILLING CODE 6560-50-P**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Parts 52 and 81

[OH 103-1b; FRL-6731-9]

#### Approval and Promulgation of Implementation Plans; Ohio, Designation of Areas for Air Quality Planning Purposes; Ohio

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a maintenance plan and redesignation of Cuyahoga and Jefferson Counties, Ohio, to attainment for particulate matter, specifically for particles known as PM<sub>10</sub>.