

further environmental documentation. This proposal will change an existing special drawbridge operating regulation promulgated by a Coast Guard Bridge Administration Program action. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

#### List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, the Coast Guard proposes to amend 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. Section 117.301 is added to read as follows:

##### § 117.301 Massalina Bayou.

The draw of the Tarpon Dock bascule span bridge, Massalina Bayou, mile 0.0 at Panama City, shall open on signal; except that from 9 p.m. until 11 p.m. on July 4, each year, the draw need not open for the passage of vessels. The draw will open at any time for a vessel in distress.

Dated: April 13, 2001.

**Paul J. Pluta,**

*Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.*

[FR Doc. 01–11714 Filed 5–8–01; 8:45 am]

**BILLING CODE 4910–15–P**

#### DEPARTMENT OF COMMERCE

##### Patent and Trademark Office

##### 37 CFR Parts 1 and 2

[Docket No. 991105297–1085–02]

**RIN 0651–AB01**

##### Revision of Patent and Trademark Fees for Fiscal Year 2002

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The United States Patent and Trademark Office (referred to as "we", "us", or "our" in this document) is proposing to adjust certain patent fee amounts and a trademark fee amount to reflect fluctuations in the Consumer Price Index (CPI). Also, we are proposing to adjust, by a corresponding

amount, a few patent fees that track the affected fees. Our Director is authorized to adjust these fees annually by the CPI to recover the higher costs associated with doing business. In addition, we are proposing to change the maintenance fee correspondence address to better serve our customers, and amend a fee to reflect current business practice. These proposed amendments would keep our fees aligned with the CPI and streamline administrative matters.

**DATES:** Comments must be submitted on or before June 12, 2001.

**ADDRESSES:** Comments may be submitted by e-mail addressed to [matthew.lee@uspto.gov](mailto:matthew.lee@uspto.gov). Comments may also be submitted by mail addressed to: Office of Finance, Crystal Park One, Suite 802, Washington, DC, 20231, or by fax to (703) 305–8007, marked to the attention of Matthew Lee.

##### FOR FURTHER INFORMATION CONTACT:

Matthew Lee by e-mail at [matthew.lee@uspto.gov](mailto:matthew.lee@uspto.gov), by telephone at (703) 305–8051, or by fax at (703) 305–8007.

**SUPPLEMENTARY INFORMATION:** This proposed rule would adjust our fees in accordance with the applicable provisions of title 35, United States Code, as amended by the Consolidated Appropriations Act, Fiscal Year 2000 (which incorporated the Intellectual Property and Communications Omnibus Reform Act of 1999) (Public Law 106–113); and section 1113 of title 15, United States Code. This proposed rule would also adjust, by a corresponding amount, a few patent fees (37 CFR 1.17(e), (r), (s), and (t)) that track statutory fees (either 37 CFR 1.16(a) or 1.17(m)).

In addition, this proposed rule would change the maintenance fee correspondence address. The address change for maintenance fee payments would benefit our customers by allowing the payments to be processed within 24 hours of receipt, rather than the current time frame of three to five days. Likewise, the funds would be deposited more quickly with the United States Treasury. The address change for other communications related to maintenance fees would permit us to respond in a timelier manner. Maintenance fee correspondence received at the Box M Fee" address would be forwarded to the appropriate address in § 1.1(d) for an indefinite period of time.

##### Background

##### Statutory Provisions

Patent fees are authorized by 35 U.S.C. 41 and 35 U.S.C. 376. For fees

paid under 35 U.S.C. 41 (a) and (b), independent inventors, small business concerns, and nonprofit organizations who meet the requirements of 35 U.S.C. 41(h)(1) are entitled to a fifty-percent reduction.

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

Subsection 41(d) of title 35, United States Code, authorizes the Director to establish fees for all other processing, services, or materials related to patents to recover the average cost of providing these services or materials, except for the fees for recording a document affecting title, for each photocopy, for each black and white copy of a patent, and for library services.

Section 376 of title 35, United States Code, authorizes the Director to set fees for patent applications filed under the Patent Cooperation Treaty (PCT).

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

Section 1113 of title 15, United States Code, authorizes the Director to establish fees for the filing and processing of an application for the registration of a trademark or other mark, and for all other services and materials relating to trademarks and other marks.

Subsection 1113(a) of title 15, United States Code, allows trademark fees to be adjusted once each year to reflect, in the aggregate, any fluctuations during the preceding twelve months in the CPI.

Subsection 1113(a) also allows new trademark fee amounts to take effect thirty days after notice in the **Federal Register** and the *Official Gazette of the United States Patent and Trademark Office*.

##### Fee Adjustment Level

The patent statutory fees established by 35 U.S.C. 41 (a) and (b) are proposed to be adjusted on October 1, 2001, to reflect any fluctuations occurring during the previous twelve months in the Consumer Price Index for all urban consumers (CPI–U). In calculating these fluctuations, the Office of Management and Budget (OMB) has determined that we should use CPI–U data as determined by the Secretary of Labor. In accordance with previous fee-setting methodology, we use the Administration's projected CPI–U for

the twelve-month period ending September 30, 2001, which is 3.6 percent. Based on this projection, patent statutory fees are proposed to be adjusted by 3.6 percent. Before the final fee amounts are published, the fees may be adjusted slightly based on updated data available from the Secretary of Labor.

Certain patent processing fees established under 35 U.S.C. 41(d), 119, 120, 132(b), 376, and Public Law 103–465 (the Uruguay Round Agreements Act) are proposed to be adjusted to reflect fluctuations in the CPI.

A trademark processing fee established under 15 U.S.C. 1113 is proposed to be adjusted to reflect fluctuations in the CPI.

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

#### *General Procedures*

Any fee amount that is paid on or after the effective date of the proposed fee increase would be subject to the new fees then in effect. The amount of the fee to be paid will be determined by the time of filing. The time of filing will be determined either according to the date of receipt in our office or the date reflected on a proper Certificate of Mailing or Transmission, where such a certificate is authorized under 37 CFR 1.8. Use of a Certificate of Mailing or Transmission is not authorized for items that are specifically excluded from the provisions of § 1.8. Items for which a Certificate of Mailing or Transmission under § 1.8 are not authorized include, for example, for filing of Continued Prosecution Applications (CPAs) under § 1.53(d) and other national and international applications for patents. See 37 CFR 1.8(a)(2).

Under 37 CFR 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 our 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.

To ensure clarity in the implementation of the new fees, a discussion of specific sections is set forth below.

### **Discussion of Specific Rules**

#### *37 CFR 1.1 Addresses for Correspondence With the United States Patent and Trademark Office*

Section 1.1, paragraphs (a) and (d), if revised as proposed, would change the maintenance fee correspondence address.

#### *37 CFR 1.16 National Application Filing Fees*

Section 1.16, paragraphs (a), (b), (d), (f) through (i), and (k), if revised as proposed, would adjust fees established therein to reflect fluctuations in the CPI.

#### *37 CFR 1.17 Patent Application and Reexamination Processing Fees*

Section 1.17, paragraphs (a)(2) through (a)(5), (b) through (e), (m), and (r) through (t), if revised as proposed, would adjust fees established therein to reflect fluctuations in the CPI.

#### *37 CFR 1.18 Patent Post Allowance (Including Issue) Fees*

Section 1.18, paragraphs (a) through (c), if revised as proposed, would adjust fees established therein to reflect fluctuations in the CPI.

#### *37 CFR 1.20 Post Issuance Fees*

Section 1.20, paragraphs (e) through (g), if revised as proposed, would adjust fees established therein to reflect fluctuations in the CPI.

#### *37 CFR 1.21 Miscellaneous Fees and Charges*

Section 1.21, paragraph (o), if revised as proposed, would be removed and reserved to reflect current business practice. We no longer use or provide access to the Automated Patent System.

#### *37 CFR 1.492 National Stage Fees*

Section 1.492, paragraphs (a)(1) through (a)(3), (a)(5), (b), and (d), if revised as proposed, would adjust fees established therein to reflect fluctuations in the CPI.

#### *37 CFR 2.6 Trademark Fees*

Section 2.6, paragraph (a)(1), if revised as proposed, would adjust the fee established therein to reflect fluctuations in the CPI.

### **Other Considerations**

This proposed rule contains no information collection requirements within the meaning of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* This proposed rule has been determined to be not significant for purposes of Executive Order 12866. This proposed rule does not contain policies with Federalism implications sufficient to warrant preparation of a

Federalism Assessment under Executive Order 13132 (August 4, 1999).

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration, that the proposed rule change would not have a significant economic impact on a substantial number of small entities (Regulatory Flexibility Act, 5 U.S.C. 605(b)). The proposed rule change increases fees to reflect the change in the CPI as authorized by 35 U.S.C. 41(f). Further, the principal impact of the major patent fees has already been taken into account in 35 U.S.C. 41(h)(1), which provides small entities with a fifty-percent reduction in the major patent fees. The USPTO received approximately 92,000 patent applications last year from small entities. Since the average small entity fee would increase by less than \$14.00, with a minimum increase of \$2.00 and a maximum increase of \$55.00, there will not be a significant economic impact on a substantial number of small entities due to this proposed rule change.

A comparison of existing and proposed fee amounts is included as an appendix to this notice of proposed rulemaking.

### **Lists of Subjects**

#### *37 CFR Part 1*

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

#### *37 CFR Part 2*

Administrative practice and procedure, Courts, Lawyers, Trademarks.

For the reasons set forth in the preamble, we are proposing to amend title 37 of the Code of Federal Regulations, Parts 1 and 2, as set forth below.

### **PART 1—RULES OF PRACTICE IN PATENT CASES**

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

**Authority:** 35 U.S.C. 2(b)(2), unless otherwise noted.

2. Section 1.1 is proposed to be amended by revising paragraphs (a) introductory text and (d) to read as follows:

#### **§ 1.1 Addresses for correspondence with the Patent and Trademark Office.**

(a) Except for paragraph (a)(3)(i) and (ii), and (d)(1) of this section, all

correspondence intended for the United States Patent and Trademark Office must be addressed to either "Commissioner of Patents and Trademarks, Washington, DC 20231" or to specific areas within the Office as set out in paragraphs (a)(1), (2) and (3)(iii) of this section. When appropriate, correspondence should also be marked for the attention of a particular office or individual.

\* \* \* \* \*

(d) *Maintenance fee correspondence.*

(1) Payments of maintenance fees in patents shall be mailed to: United States Patent and Trademark Office, P.O. Box 371611, Pittsburgh, PA 15250-1611.

(2) Other communications related to maintenance fees should be additionally marked "Box M Correspondence."

\* \* \* \* \*

3. Section 1.16 is proposed to be amended by revising paragraphs (a), (b), (d), (f) through (i), and (k) 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 (§ 1.27(a)): \$370.00

By other than a small entity: \$740.00

(b) In addition to the basic filing fee in an original application, except provisional applications, for filing or later presentation of each independent claim in excess of 3:

By a small entity (§ 1.27(a)): \$42.00

By other than a small entity: \$84.00

\* \* \* \* \*

(d) In addition to the basic filing fee in an original application, except provisional applications, if the application contains, or is amended to contain, a multiple dependent claim(s), per application:

By a small entity (§ 1.27(a)): \$140.00

By other than a small entity: \$280.00

\* \* \* \* \*

(f) Basic fee for filing each design application:

By a small entity (§ 1.27(a)): \$165.00

By other than a small entity: \$330.00

(g) Basic fee for filing each plant application, except provisional applications:

By a small entity (§ 1.27(a)): \$255.00

By other than a small entity: \$510.00

(h) Basic fee for filing each reissue application:

By a small entity (§ 1.27(a)): \$370.00

By other than a small entity: \$740.00

(i) In addition to the basic filing fee in a reissue application, for filing or

later presentation of each independent claim which is in excess of the number of independent claims in the original patent:

By a small entity (§ 1.27(a)): \$42.00

By other than a small entity: \$84.00

\* \* \* \* \*

(k) Basic fee for filing each provisional application:

By a small entity (§ 1.27(a)): \$80.00

By other than a small entity: \$160.00

\* \* \* \* \*

4. Section 1.17 is proposed to be amended by revising paragraphs (a)(2) through (a)(5), (b) through (e), (m), and (r) through (t) to read as follows:

**§ 1.17 Patent application and reexamination processing fees.**

(a) \* \* \*

(1) \* \* \*

(2) For reply within second month:

By a small entity (§ 1.27(a)): \$200.00

By other than a small entity: \$400.00

(3) For reply within third month:

By a small entity (§ 1.27(a)): \$460.00

By other than a small entity: \$920.00

(4) For reply within fourth month:

By a small entity (§ 1.27(a)): \$720.00

By other than a small entity: \$1,440.00

(5) For reply within fifth month:

By a small entity (§ 1.27(a)): \$980.00

By other than a small entity: \$1,960.00

(b) For filing a notice of appeal from the examiner to the Board of Patent Appeals and Interferences:

By a small entity (§ 1.27(a)): \$160.00

By other than a small entity: \$320.00

(c) In addition to the fee for filing a notice of appeal, for filing a brief in support of an appeal:

By a small entity (§ 1.27(a)): \$160.00

By other than a small entity: \$320.00

(d) For filing a request for an oral hearing before the Board of Patent Appeals and Interferences in an appeal under 35 U.S.C. 134:

By a small entity (§ 1.27(a)): \$140.00

By other than a small entity: \$280.00

(e) To request continued examination pursuant to § 1.114:

By a small entity (§ 1.27(a)): \$370.00

By other than a small entity: \$740.00

\* \* \* \* \*

(m) For filing a petition for revival of an unintentionally abandoned application, for the unintentionally delayed payment of the fee for issuing a patent, or for the revival of an unintentionally terminated reexamination proceeding under 35 U.S.C. 41(a)(7) (§ 1.137(b)):

By a small entity (§ 1.27(a)): \$640.00

By other than a small entity: \$1,280.00

\* \* \* \* \*

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

By a small entity (§ 1.27(a)): \$370.00

By other than a small entity: \$740.00

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

By a small entity (§ 1.27(a)): \$370.00

By other than a small entity: \$740.00

(t) For the acceptance of an unintentionally delayed claim for priority under 35 U.S.C. 119, 120, 121, or 365(a) or (c) (§§ 1.55 and 1.78): \$1,280.00

5. Section 1.18 is proposed to be amended by revising paragraphs (a) through (c) to read as follows:

**§ 1.18 Patent post allowance (including issue) fees.**

(a) Issue fee for issuing each original or reissue patent, except a design or plant patent:

By a small entity (§ 1.27(a)): \$640.00

By other than a small entity: \$1,280.00

(b) Issue fee for issuing a design patent:

By a small entity (§ 1.27(a)): \$230.00

By other than a small entity: \$460.00

(c) Issue fee for issuing a plant patent:

By a small entity (§ 1.27(a)): \$310.00

By other than a small entity: \$620.00

\* \* \* \* \*

6. Section 1.20 is proposed to be amended by revising paragraphs (e) through (g) 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 (§ 1.27(a)): \$440.00

By other than a small entity: \$880.00

(f) 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 eight years; the fee is due by seven years and six months after the original grant:

By a small entity (§ 1.27(a)): \$1,010.00

By other than a small entity: \$2,020.00

(g) 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 twelve years; the fee is due by

eleven years and six months after the original grant:

By a small entity (§ 1.27(a)): \$1,550.00  
By other than a small entity: \$3,100.00

\* \* \* \* \*

#### § 1.21 [Amended]

7. Section 1.21 is proposed to be amended by removing and reserving paragraph (o).

8. Section 1.492 is proposed to be amended by revising paragraphs (a)(1) through (a)(3), (a)(5), (b), and (d) to read as follows:

#### § 1.492 National stage fees.

\* \* \* \* \*

(a) The basic national fee:

(1) Where an international preliminary examination fee as set forth in § 1.482 has been paid on the international application to the United States Patent and Trademark Office:

By a small entity (§ 1.27(a)): \$355.00  
By other than a small entity: \$710.00

(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 (§ 1.27(a)): \$370.00  
By other than a small entity: \$740.00

(3) Where no international preliminary examination fee as set forth in § 1.482 has been paid and no 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:

By a small entity (§ 1.27(a)): \$520.00  
By other than a small entity: \$1,040.00

(4) \* \* \*

(5) Where a search report on the international application has been prepared by the European Patent Office or the Japanese Patent Office:

By a small entity (§ 1.27(a)): \$445.00  
By other than a small entity: \$890.00

(b) In addition to the basic national fee, for filing or later presentation of each independent claim in excess of 3:

By a small entity (§ 1.27(a)): \$42.00  
By other than a small entity: \$84.00

\* \* \* \* \*

(d) In addition to the basic national fee, if the application contains, or is amended to contain, a multiple dependent claim(s), per application:

By a small entity (§ 1.27(a)): \$140.00  
By other than a small entity: \$280.00

\* \* \* \* \*

## PART 2—RULES OF PRACTICE IN TRADEMARK CASES

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

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

2. Section 2.6 is proposed to be amended by revising paragraph (a)(1) to read as follows:

#### § 2.6 Trademark fees.

\* \* \* \* \*

(a) \* \* \*

(1) For filing an application, per class: \$340.00

\* \* \* \* \*

Dated: April 27, 2001.

**Nicholas P. Godici.**

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

[FR Doc. 01-11591 Filed 5-8-01; 8:45 am]

**BILLING CODE 3510-16-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[KY-112-9933(b); FRL-6975-6]

#### Approval and Promulgation of Air Quality Implementation Plans; Kentucky: Approval of American Greetings Corporation Source-Specific State Implementation Plan Revision

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

**ACTION:** Proposed rule.

**SUMMARY:** On March 30, 1999, the Commonwealth of Kentucky submitted, through the Natural Resources and Environmental Protection Cabinet, a source specific revision to the Kentucky State Implementation Plan (SIP). This source specific SIP revision allows American Greetings Corporation to have an alternative averaging period of 30 days for compliance determination. In the final rules section of this **Federal Register**, the EPA is approving the revision as a direct final rule without prior proposal because the EPA views this as a noncontroversial revision amendment 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 that direct final rule no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct

final rule will be withdrawn and all public comments will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting should do so at this time.

**DATES:** To be considered, comments must be received by June 8, 2001.

**ADDRESSES:** Written comments on this action should be addressed to Randy Terry at the Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.

Copies of documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day and reference file KY 112-01-9933. The Region 4 office may have additional background documents not available at the other locations.

U.S. Environmental Protection Agency; Region 4 Air Planning Branch; 61 Forsyth Street, SW; Atlanta, Georgia 30303-8960

Commonwealth of Kentucky; Division for Air Quality; 803 Schenkel Lane; Frankfort, KY 40601-1403.

#### FOR FURTHER INFORMATION CONTACT:

Randy Terry, Regulatory Planning Section, Air Planning Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 61 Forsyth Street SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9032.

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

Dated: April 20, 2001.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 01-11525 Filed 5-8-01; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[DC049-2026b; FRL-6973-6]

#### Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Oxygenated Gasoline Program

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

**ACTION:** Proposed rule.