

List of Subjects**32 CFR Part 59**

Military personnel, Wages.

32 CFR Part 62b

Alcohol abuse, Drug abuse, Government employees, Highway safety, Military personnel.

32 CFR Part 73

Armed forces, Education, Government procurement.

32 CFR Part 158

Classified information.

32 CFR Part 190

Armed forces, Federal buildings and facilities, Natural resources.

32 CFR Part 216

Armed forces, Armed forces reserves, Colleges and universities, Education.

32 CFR Part 221

Health professions, Reporting and recordkeeping requirements.

32 CFR Part 224

Advisory committees.

32 CFR Part 229

Administrative practice and procedure, Historic preservation, Indians—lands, Penalties, Public lands, Reporting and recordkeeping requirements.

32 CFR Part 238

Armed forces, Intergovernmental relations.

32 CFR Part 248

Armed forces, Government publications.

32 CFR Part 252

Armed forces, Continental shelf.

32 CFR Part 258

Foreign relations, National defense, Research.

32 CFR Part 261

Alcohol and alcoholic beverages, Armed forces, Concessions, Federal buildings and facilities.

32 CFR Part 271

Banks, banking, Credit, Privacy.

32 CFR Part 336

Administrative practice and procedure.

32 CFR Parts 345 and 347

Elementary and secondary education, Organization and functions (Government agencies).

32 CFR Parts 371, 378, and 388

Organization and functions (Government agencies).

PARTS 59, 62b, 73, 158, 190, 216, 221, 224, 229, 238, 248, 252, 258, 261, 271, 336, 345, 347, 371, 378, and 388—[REMOVED]

■ Accordingly, by the authority of 10 U.S.C. 301, 32 CFR parts 59, 62b, 73, 158, 190, 216, 221, 224, 229, 238, 248, 252, 258, 261, 271, 336, 345, 347, 371, 378, and 388 are removed.

Dated: March 6, 2006.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 06–2310 Filed 3–9–06; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF COMMERCE**Patent and Trademark Office****37 CFR Part 1**

[Docket No. 2004–P–038]

RIN 0651–AB79

Changes To Implement the Patent Search Fee Refund Provisions of the Consolidated Appropriations Act, 2005

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: Among other changes to patent and trademark fees, the Consolidated Appropriations Act, 2005 (Consolidated Appropriations Act), splits the patent application filing fee into a separate filing fee, search fee and examination fee. The Consolidated Appropriations Act also provides that the United States Patent and Trademark Office (Office) may refund part or all of the excess claims fee and the search fee in certain situations. This final rule revises the rules of practice to implement the provisions for refunding the search fee for applicants who file a written declaration of express abandonment before an examination has been made of the application.

DATES: *Effective Date:* March 10, 2006.

Applicability Date: The changes in this final rule apply to any patent application filed under 35 U.S.C. 111(a) on or after December 8, 2004, in which a petition under 37 CFR 1.138(d) to expressly abandon the application was filed on or after March 10, 2006.

FOR FURTHER INFORMATION CONTACT: Robert W. Bahr, Senior Patent Attorney, Office of the Deputy Commissioner for

Patent Examination Policy, by telephone at (571) 272–8800, by mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450, or by facsimile to (571) 273–7735, marked to the attention of Robert W. Bahr.

SUPPLEMENTARY INFORMATION: Among other changes, the Consolidated Appropriations Act (section 801 of Division B) provides that 35 U.S.C. 41(a), (b), and (d) shall be administered in a manner that revises patent application fees (35 U.S.C. 41(a)) and patent maintenance fees (35 U.S.C. 41(b)), and provides for a separate filing fee (35 U.S.C. 41(a)), search fee (35 U.S.C. 41(d)(1)), and examination fee (35 U.S.C. 41(a)(3)) during fiscal years 2005 and 2006. The Consolidated Appropriations Act also provides that the Office may, by regulation, provide for a refund of: (1) Any part of the excess claims fee specified in 35 U.S.C. 41(a)(2) for any claim that is canceled before an examination on the merits has been made of the application under 35 U.S.C. 131; (2) any part of the search fee for any applicant who files a written declaration of express abandonment as prescribed by the Office before an examination has been made of the application under 35 U.S.C. 131; and (3) any part of the search fee for any applicant who provides a search report that meets the conditions prescribed by the Office. This final rule revises the rules of practice to implement the provision for a refund of the search fee for any applicant who files a written declaration of express abandonment as prescribed by the Office before an examination has been made of the application under 35 U.S.C. 131, and the provision for a refund of the excess claims fee for any claim that is canceled before an examination on the merits has been made of the application under 35 U.S.C. 131.

Discussion of Specific Rules

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

Section 1.138: Section 1.138(c) is amended to change “section” (*i.e.*, § 1.138) to “paragraph” (*i.e.*, § 1.138(c)) to clarify that a petition to expressly abandon an application to avoid publication of an application is filed under § 1.138(c) (rather than § 1.138).

Section 1.138 is also amended to include a new paragraph (d), which implements the provision in 35 U.S.C. 41(d)(1)(D) that the Office may provide for a refund of any part of the search fee “for any applicant who files a written declaration of express abandonment as prescribed by the Director before an

examination has been made of the application under [35 U.S.C.] 131" (and in part the provision in 35 U.S.C. 41(a)(2) that the Office may provide for a refund of any part of the excess claims fee "for any claim that is canceled before an examination on the merits, as prescribed by the Director, has been made of the application under [35 U.S.C.] 131"). Section 1.138(d) specifically provides that an applicant seeking to abandon an application filed under 35 U.S.C. 111(a) and § 1.53(b) on or after December 8, 2004, to obtain a refund of the search fee and excess claims fee paid in the application, must submit a petition and declaration of express abandonment before an examination has been made of the application.

A petition under § 1.138(d) will be granted if it was filed before an examination has been made of the application and will be denied if it was not filed before an examination has been made of the application. This will avert the situation in which an applicant files a declaration of express abandonment to obtain a refund of the search fee and excess claims fee, the request for a refund is not granted because the declaration of express abandonment was not filed before an examination has been made of the application, the applicant then wishes to rescind the declaration of express abandonment upon learning that the declaration of express abandonment was not filed before an examination has been made of the application, and the Office cannot revive the application (once the declaration of express abandonment is recognized) because the application was expressly and intentionally abandoned by the applicant.

An "examination has been made of the application" for purposes of § 1.138(d) once an action (e.g., restriction or election of species requirement, requirement for information under § 1.105, first Office action on the merits, notice of Allowability or allowance, or action under *Ex parte Quayle*, 1935 Dec. Comm'r Pat. 11 (1935)) is shown in PALM as having been counted. For purposes of § 1.138(d), "before" means occurring earlier in time, in that if a petition under § 1.138(d) is filed and an action is counted on the same day, the petition under § 1.138(d) was not filed before an examination has been made of the application. In addition, the date indicated on any certificate of mailing or transmission under § 1.8 will not be taken into account in determining whether a petition under § 1.138(d) was filed before an examination has been made of the application. The Office

recommends that petitions under § 1.138(d) be submitted by facsimile to 703-305-8568 using the Office's "Petition for Express Abandonment to Obtain a Refund" form (PTO/SB/24B) to avoid delays in receiving and processing the petition under § 1.138(d).

The Patent Application Locating and Monitoring (PALM) system maintains computerized contents records of all patent applications and reexamination proceedings. The PALM system will show a status higher than 031 once an action has been counted. If the status of an application as shown in PALM is higher than 031 before or on the day that the petition under § 1.138(d) was filed, the petition under § 1.138(d) will be denied and the search fee and excess claims fee will not be refunded.

The Patent Application Information Retrieval (PAIR) system is a system that provides public access to PALM for patents and applications that have been published. The PAIR system does not provide public access to information concerning applications that are maintained in confidence under 35 U.S.C. 122(a). The private side of PAIR, however, can be used by an applicant to access confidential information about his or her pending application. To access the private side of PAIR, a customer number must be associated with the correspondence address for the application, and the user of the system must have a digital certificate. For further information, contact the Customer Support Center of the Electronic Business Center at (571) 272-4100 or toll free at (866) 217-9197.

Section 1.138(d) also provides that if a request for refund of the search fee and excess claims fee paid in the application is not filed with the declaration of express abandonment under § 1.138(d) or within two months (not extendable) from the date on which the declaration of express abandonment under § 1.138(d) was filed, the Office may retain the entire search fee and excess claims fee paid in the application. Finally, § 1.138(d) provides that if a declaration of express abandonment under § 1.138(d) is not filed before an examination has been made of the application, the Office will not refund any part of the search fee or excess claims fee paid in the application except as provided in § 1.26.

A petition under § 1.138(d) may not be effective to stop publication of an application unless the petition under § 1.138(d) is granted and the abandonment processed before technical preparations for publication of the application has begun. Technical preparations for publication of an application generally begin four months

prior to the projected date of publication.

Response to Comments: The Office published a notice proposing changes to implement the patent search fee refund provisions of the Consolidated Appropriations Act, 2005. *See Changes to Implement the Patent Search Fee Refund Provisions of the Consolidated Appropriations Act, 2005*, 70 FR 35571 (Jun. 21, 2005), 1296 *Off. Gaz. Pat. Office* 69 (Jul. 12, 2005) (proposed rule). The Office received four written comments (from an intellectual property organization, law firm, and patent practitioners) in response to this notice. The comments and the Office's responses to the comments follow:

Comment 1: Several comments argued that the Office's decision to limit search fee refunds to applications that have been abandoned before being placed on an examiner's docket or before being taken up for examination was inconsistent with the Consolidated Appropriations Act, which provides for a search fee refund if the application is abandoned "before an examination has been made of the application." The comments further argued that the Office cannot use information technology issues as a justification for not implementing this provision. Several other comments argued that the Office's decision to limit search fee refunds to applications that have been abandoned before being placed on an examiner's docket will result in only limited use of the process, which in turn would result in the Office needing to examine more applications than it would otherwise need to examine.

Response: The Consolidated Appropriations Act permits, but does not require, the Office to refund, or develop procedures to refund, search fees or excess claims fees. *See* 35 U.S.C. 41(a)(2) and (d)(1)(D) ("[t]he Director may by regulation provide for a refund") (emphasis added). The Consolidated Appropriations Act (35 U.S.C. 41(d)(1)(D)) gives the Office the authority to fix the time by which an application must be expressly abandoned for the applicant to obtain a refund of the search fee. *See* H.R. Rep. 108-241, at 16 (2003) (H. R. Rep. 108-241 contains an analysis and discussion of an identical provision in H.R. 1561, 108th Cong. (2004)). The "before an examination has been made of the application under [35 U.S.C.] 131" provision (search fees) simply places a restriction on this authority, in that the Office does not have the authority to refund, or develop procedures to refund, the search fee in an application in which the written declaration of express abandonment is not filed before an

examination has been made of the application under 35 U.S.C. 131.

Nevertheless, the Office is seeking to maximize any benefit that may be obtained by the authority in 35 U.S.C. 41(d)(1)(D) to refund the search fee and excess claims fee in applications that are expressly abandoned before an examination has been made of the application under 35 U.S.C. 131. Therefore, the Office is revising § 1.138(d) to change “must submit a declaration of express abandonment by way of a petition under this paragraph in sufficient time to permit the appropriate officials to recognize the abandonment before the application has been taken up for examination” to “must submit a declaration of express abandonment by way of a petition under this paragraph before an examination has been made of the application,” and is providing that an “examination has been made of the application” for purposes of § 1.138(d) once an action (e.g., restriction or election of species requirement, requirement for information under § 1.105, first Office action on the merits, notice of Allowability or allowance, or action under *Ex parte Quayle*, 1935 Dec. Comm’r Pat. 11 (1935)) is shown in PALM as having been counted.

Comment 2: Several comments suggested that the Office should also refund the excess claims fees paid in an application if the application is expressly abandoned under § 1.138(d).

Response: Section 1.138(d) has been revised to provide that the Office will also refund the excess claims fees paid in an application if the application is expressly abandoned under § 1.138(d).

Comment 3: One comment requested confirmation that no petition or other fee is required for a petition under § 1.138(d) to expressly abandon an application.

Response: No petition or other fee is required for a petition under § 1.138(d) to expressly abandon an application.

Comment 4: One comment argued that the term “any search fee” was unclear and should be replaced with “the entire search fee” if the Office plans to refund the entire search fee paid in the application.

Response: Section 1.138(d) has been revised to replace the term “any search fee” with “the search fee.”

Comment 5: One comment argued that: (1) *Pro se* inventors without knowledge of customer numbers and private PAIR will not be able to access their application to determine whether it has been placed on an examiner’s docket; (2) it is not clear which docketing date will control for transferred applications as the original

docket assignment may be changed after the transfer; (3) the proposed rule does not address the filing of a request for a continued examination in the application; and (4) the time at which an application is placed on an examiner’s docket varies dramatically from Art Unit to Art Unit and from Technology Center to Technology Center. One comment suggested a rule that set a fixed time period within which the applicant may expressly abandon the application and obtain a refund of the search fee, with the Office notifying an applicant if the application would be taken up for action prior to the expiration of such fixed time period. Another comment suggested that the Office can avoid a significant information technology investment by just having the petition examiners use the telephone or electronic mail message to determine an application has been taken up for action. The comment also suggested that the Office simply have the examiner place an entry on the PALM system when a particular application was taken up for action.

Response: The Office is revising § 1.138(d) to change “must submit a declaration of express abandonment by way of a petition under this paragraph in sufficient time to permit the appropriate officials to recognize the abandonment before the application has been taken up for examination” to “must submit a declaration of express abandonment by way of a petition under this paragraph before an examination has been made of the application,” and is providing that an “examination has been made of the application” for purposes of § 1.138(d) once an action (e.g., restriction or election of species requirement, requirement for information under § 1.105, first Office action on the merits, notice of Allowability or allowance, or action under *Ex parte Quayle*, 1935 Dec. Comm’r Pat. 11 (1935)) is shown in PALM as having been counted. As discussed previously, an implementation of the search fee refund provisions of the Consolidated Appropriations Act that requires a significant information technology investment (e.g., the ability to generate notices to the applicant when an application is about to be taken up for action) is not warranted in the absence of the enactment of legislation which makes the patent fee structure provided for in the Consolidated Appropriations Act permanent.

Rule Making Considerations

Regulatory Flexibility Act

For the reasons set forth herein, the Deputy General Counsel for General Law of the United States Patent and Trademark Office has certified to the Chief Counsel for Advocacy of the Small Business Administration that changes in this final rule will not have a significant economic impact on a substantial number of small entities. See 5 U.S.C. 605(b). This final rule changes the rules of practice to implement the provisions for a refund of the search fee and excess claims fee for any applicant who files a written declaration of express abandonment as prescribed by the Office before an examination has been made of the application under 35 U.S.C. 131. The changes in this final rule would not impose any additional fees or requirements on any patent applicant. Rather, the changes in this final rule only provide for a refund of the search fee and excess claims fee for patent applicants (small or non-small entity) in certain situations.

Executive Order 13132

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

Paperwork Reduction Act

This final rule 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 changes in this final rule concern the procedures for refunding the search fee and excess claims fee for any applicant who files a written declaration of express abandonment before an examination has been made of the application under 35 U.S.C. 131. The collections of information involved in this final rule have been reviewed and previously approved by OMB under the following OMB control numbers: 0651-0031 and 0651-0032. The United States Patent and Trademark Office is resubmitting the information collections package to OMB for its review and approval because the changes in this final rule do affect the information collection requirements associated with the information collection under these OMB control numbers.

The title, description and respondent description of the information collections under OMB control numbers 0651-0031 and 0651-0032 are shown below with estimates of the annual reporting burdens. Included in the estimates is the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information.

OMB Number: 0651-0031.

Title: Patent Processing (Updating).

Form Numbers: PTO/SB/08A, PTO/SB/08B, PTO/SB/17i, PTO/SB/17p, PTO/SB/21-27, PTO/SB/30-37, PTO/SB/42-43, PTO/SB/61-64, PTO/SB/64a, PTO/SB/67-68, PTO/SB/91-92, PTO/SB/96-97, PTO-2053-A/B, PTO-2054-A/B, PTO-2055-A/B, POOL-413A.

Type of Review: Approved through July of 2006.

Affected Public: Individuals or Households, Business or Other For-Profit Institutions, Not-for-Profit Institutions, Farms, Federal Government and State, Local and Tribal Governments.

Estimated Number of Respondents: 2,284,439.

Estimated Time per Response: 1 minute and 48 seconds to 8 hours.

Estimated Total Annual Burden Hours: 2,732,441 hours.

Needs and Uses: During the processing of 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 Disclosures and citation, requests for extensions of time, the establishment of small entity status, abandonment and revival of abandoned applications, disclaimers, appeals, expedited examination of design applications, transmittal forms, requests to inspect, copy and access patent applications, publication requests, and certificates of mailing, transmittals, and submission of priority documents and amendments.

OMB Number: 0651-0032.

Title: Initial Patent Application.

Form Number: PTO/SB/01-07, PTO/SB/13PCT, PTO/SB/16-19, PTO/SB/29 and 29A, PTO/SB/101-110, Electronic New Utility and Provisional Application Forms.

Type of Review: Approved through July of 2006.

Affected Public: Individuals or Households, Business or Other For-Profit Institutions, Not-For-Profit Institutions, Farms, Federal Government, and State, Local, or Tribal Governments.

Estimated Number of Respondents: 454,287.

Estimated Time per Response: 22 minutes to 10 hours and 45 minutes.

Estimated Total Annual Burden Hours: 4,171,568 hours.

Needs and Uses: The purpose of this information collection is to permit the Office to determine whether an application meets the criteria set forth in the patent statute and regulations. The standard Fee Transmittal form, New Utility Patent Application Transmittal form, New Design Patent Application Transmittal form, New Plant Patent Application Transmittal form, Declaration, Provisional Application Cover Sheet, and Plant Patent Application Declaration will assist applicants in complying with the requirements of the patent statute and regulations, and will further assist the Office in processing and examination of the application.

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: (1) 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, 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 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 1.138 is amended by revising paragraph (c) and adding paragraph (d) to read as follows:

§ 1.138 Express abandonment.

* * * * *

(c) An applicant seeking to abandon an application to avoid publication of the application (see § 1.211(a)(1)) must submit a declaration of express abandonment by way of a petition under this paragraph including the fee set forth in § 1.17(h) in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process. Applicants should expect that the petition will not be granted and the application will be published in regular course unless such declaration of express abandonment and petition are received by the appropriate officials more than four weeks prior to the projected date of publication.

(d) An applicant seeking to abandon an application filed under 35 U.S.C. 111(a) and § 1.53(b) on or after December 8, 2004, to obtain a refund of the search fee and excess claims fee paid in the application, must submit a declaration of express abandonment by way of a petition under this paragraph before an examination has been made of the application. The date indicated on any certificate of mailing or transmission under § 1.8 will not be taken into account in determining whether a petition under § 1.138(d) was filed before an examination has been made of the application. If a request for refund of the search fee and excess claims fee paid in the application is not filed with the declaration of express abandonment under this paragraph or within two months from the date on which the declaration of express abandonment under this paragraph was filed, the Office may retain the entire search fee and excess claims fee paid in the application. This two-month period is not extendable. If a petition and declaration of express abandonment under this paragraph are not filed before an examination has been made of the application, the Office will not refund any part of the search fee and excess claims fee paid in the application except as provided in § 1.26.

Dated: March 2, 2006.

Jon W. Dudas,

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

[FR Doc. 06-2333 Filed 3-9-06; 8:45 am]

BILLING CODE 3510-16-P

POSTAL SERVICE

39 CFR Part 230

Office of Inspector General; Arrest and Investigative Powers of Criminal Investigators

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This rule describes the procedures for service of administrative subpoenas by criminal investigators employed by the Office of Inspector General.

EFFECTIVE DATE: March 10, 2006.

FOR FURTHER INFORMATION CONTACT: Gladis Griffith, Deputy General Counsel, Office of Inspector General, (703) 248-4683.

SUPPLEMENTARY INFORMATION: The Postal Service has previously published rules, at 67 FR 16025, that describe the functions that may be performed by criminal investigators employed by the Office of Inspector General. This rule adds the procedures for service of administrative subpoenas by such personnel.

List of Subjects in 39 CFR Part 230

Administrative practice and procedure.

■ For the reasons stated, the Postal Service amends 39 CFR as follows:

PART 230—OFFICE OF INSPECTOR GENERAL

■ 1. The authority citation for part 230 continues to read as follows:

Authority: 5 U.S.C. App. 3; 39 U.S.C. 401(2) and 1001.

§ 230.4 [Amended]

■ 2. Section 230.4 is amended by designating the existing text as paragraph (a), and adding the following new paragraph (b):

(b) Administrative subpoenas may be served by delivering a copy to a person or by mailing a copy to the person's last known address. For the purposes of this provision, delivery of a copy includes handing it to the party or leaving it at the party's office or residence with a person of suitable age and discretion

employed or residing therein. Service by mail is complete upon mailing.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 06-2260 Filed 3-9-06; 8:45 am]

BILLING CODE 7710-12-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2004-TX-0006; FRL-8043-9]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Control of Air Pollution by Permits for New Construction or Modification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Texas State Implementation Plan (SIP). This action approves provisions for alternate language public notice for certain preconstruction permits or permit renewals and provisions for preconstruction permit renewals. It approves SIP revisions that Texas submitted to EPA on August 31, 1993; April 29, 1994; August 17, 1994; and July 22, 1998. The provisions that EPA is approving supplement the current requirements for new construction and modifications and are more stringent than the Federal Clean Air Act (CAA or the Act) and EPA regulations. We are approving the revisions under sections 110 and 116 of the Act.

DATES: This direct final rule is effective on May 9, 2006 without further notice, unless EPA receives significant adverse comment by April 10, 2006. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R06-OAR-2004-TX-0006, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- U.S. EPA Region 6 "Contact Us" web site: <http://epa.gov/region6/r6coment.htm> Please click on "6PD" (Multimedia) and select "Air" before submitting comments.

- E-mail: Mr. David Neleigh at neleigh.david@epa.gov. Please also cc the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

- Fax: Mr. David Neleigh, Chief, Air Permits Section (6PD-R), at fax number 214-665-7263.

- Mail: Mr. David Neleigh, Chief, Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

- Hand or Courier Delivery: Mr.

David Neleigh, Chief, Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Such deliveries are accepted only between the hours of 8:00 a.m. and 4:00 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R06-OAR-2004-TX-0006. EPA's policy is that all comments received, including any personal information provided, will be included in the public file without change and may be made available online at <http://docket.epa.gov/rmepub/> unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in