

has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

*National Environmental Policy Act*

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

*Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

*Regulatory Flexibility Act*

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

*Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

- a. Does not have an annual effect on the economy of \$100 million.
- b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.
- c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or

the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

*Unfunded Mandates*

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

**List of Subjects in 30 CFR Part 943**

Intergovernmental relations, Surface mining, Underground mining.

Dated: November 8, 2000.

**Charles E. Sandberg,**

*Acting Regional Director, Mid-Continent Regional Coordinating Center.*

For the reasons set out in the preamble, 30 CFR Part 943 is amended as set forth below:

**PART 943—TEXAS**

1. The authority citation for Part 943 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

2. Section 943.15 is amended in the table by adding a new entry in chronological order by "Date of final publication" to read as follows:

**§ 943.15 Approval of Texas regulatory program amendments.**

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
*	*	*
August 24, 2000 .....	November 24, 2000 .....	TAC § 12.80(a)(1), (3)–(7); (b)(2)–(3); § 12.385(a); (e)–(e)(2)(D); § 12.552(a); (e)–(e)(2)(D); and § 12.651(13).

[FR Doc. 00–29969 Filed 11–24–00; 8:45 am]  
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**DEPARTMENT OF COMMERCE**

**United States Patent and Trademark Office**

**37 CFR Part 1**

**RIN 0651–AB15**

**Simplification of Certain Requirements in Patent Interference Practice**

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

**ACTION:** Final rule.

**SUMMARY:** The United States Patent and Trademark Office amends its rules of practice in patent interferences to simplify certain requirements relating to the declaration of interferences and the presentation of evidence.

**EFFECTIVE DATE:** December 26, 2000.

**FOR FURTHER INFORMATION CONTACT:** Fred McKelvey or Richard Torczon at 703–308–9797.

**SUPPLEMENTARY INFORMATION:**

**Background**

An interim final version of this rulemaking was published at 65 FR

56792, Sept. 20, 2000, and also at U.S. Patent and Trademark Office, 1239 Off. Gaz. 125 (Oct. 17, 2000). The rationale for the rulemaking appears with the interim rule.

**Comments**

The interim rule elicited two comments. One comment notes a reference in 37 CFR 1.671(e) to a rule that was deleted. That reference is eliminated in this final rule. Any other references to deleted rules in subpart E of this title should be considered obsolete. They will be eliminated in a future rulemaking.

A second comment raised a concern as to whether exhibits should be numbered, noting that there is no patent interference rule requiring that exhibits be numbered. Each exhibit needs to be identified in some unique manner. All interferences declared by the Board of Patent Appeals and Interferences (Board) at this time are subject to a "Standing Order" that requires that exhibits be numbered.

The same comment noted that former 37 CFR 1.682 authorized placing a publication in evidence without the need for an affidavit. According to the comment, affidavits will now be necessary. Publications generally may be placed in evidence in interference cases without an affidavit. If an objection is made by an opponent, e.g., for lack of authenticity, then under the Board's practice the party has a period of time within which to supplement its evidence by properly authenticating the publication. The Board expects few, if any, problems with the admissibility of most printed publications given that most parties will have no reason to question the authenticity of most printed publications.

**Regulatory Flexibility Act**

This rulemaking is procedural and is not subject to the requirements of 5 U.S.C. 553 so no initial regulatory flexibility analysis is required under 5 U.S.C. 603.

**Executive Order 13132: Federalism Assessment**

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

**Paperwork Reduction Act**

This interim rule creates no information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

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

Administrative practice and procedure, Inventions and patents.

For the reasons stated in the preamble, the United States Patent and Trademark Office amends 37 CFR Part 1 as follows:

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

1. Amend the authority citation for 37 CFR Part 1 to read as follows:

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

2. Amend § 1.601(f) to revise paragraph (f) to read as follows:

**§ 1.601 Scope of rules, definitions.**

\* \* \* \* \*

(f) A *count* defines the interfering subject matter between two or more applications or between one or more applications and one or more patents. When there is more than one count, each count shall define a separate patentable invention. Any claim of an application or patent that is designated to correspond to a count is a claim involved in the interference within the meaning of 35 U.S.C. 135(a). A claim of a patent or application that is designated to correspond to a count and is identical to the count is said to correspond exactly to the count. A claim of a patent or application that is designated to correspond to a count but is not identical to the count is said to correspond substantially to the count. When a count is broader in scope than all claims which correspond to the count, the count is a phantom count.

\* \* \* \* \*

3. Revise § 1.606 to read as follows:

**§ 1.606 Interference between an application and a patent; subject matter of the interference.**

Before an interference is declared between an application and an unexpired patent, an examiner must determine that there is interfering subject matter claimed in the application and the patent which is patentable to the applicant subject to a judgment in the interference. The interfering subject matter will be defined by one or more counts. The application must contain, or be amended to contain, at least one claim that is patentable over the prior art and corresponds to each count. The claim in the application need not be, and most often will not be, identical to a claim in the patent. All claims in the application and patent which define the same patentable invention as a count shall be designated to correspond to the count.

4. Amend § 1.671 to revise paragraphs (a) and (e) to read as follows:

**§ 1.671 Evidence must comply with rules.**

(a) Evidence consists of affidavits, transcripts of depositions, documents and things.

\* \* \* \* \*

(e) A party may not rely on an affidavit (including exhibits), patent, or printed publication previously submitted by the party under § 1.639(b) unless a copy of the affidavit, patent, or printed publication has been served and a written notice is filed prior to the close of the party's relevant testimony period stating that the party intends to rely on the affidavit, patent, or printed publication. When proper notice is given under this paragraph, the affidavit, patent, or printed publication shall be deemed as filed under § 1.640(b), § 1.640(e)(3), or § 1.672, as appropriate.

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Dated: November 9, 2000.

**Q. Todd Dickinson,**

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

[FR Doc. 00-30015 Filed 11-22-00; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

**[MI75-7284a; FRL-6907-1]**

**Approval and Promulgation of State Implementation Plans; Michigan**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** The United States Environmental Protection Agency (EPA) is adjusting the applicability date for reinstating the 1-hour ozone National Ambient Air Quality Standard (NAAQS) in Allegan County, Michigan and is determining that the area has attained the 1-hour ozone NAAQS. This determination is based on 3 consecutive years of complete, quality-assured, ambient air monitoring data for the 1997-1999 ozone seasons that demonstrate the area has attained the ozone NAAQS. On the basis of this determination, EPA is also determining that certain attainment demonstration requirements, and certain related requirements of part D of subchapter I of the Clean Air Act (CAA), do not apply to the Allegan area.

EPA is also approving the State of Michigan's request to redesignate Allegan County to attainment for the 1-hour ozone NAAQS. Michigan submitted the redesignation request for the Allegan area in two submittals dated September 1, 2000 and October 13, 2000. In approving this redesignation request, EPA is also approving the