DEFINITIONS. As used in this section, designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the COTP Boston in the enforcement of the safety zone.

(c) Regulations. When this safety zone is enforced, the following regulations, along with those contained in 33 CFR 165.23 apply:

(1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP’s designated representative.

(2) To seek permission to enter, contact the COTP’s representative via Channel 16 (VHF–FM) or 617–223–5757 (Sector Boston Command Center). Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP’s designated representative.

(d) Enforcement period. This section will be enforced from 7 p.m. on October 23, 2020, to 11:59 p.m. on November 6, 2020.

(e) Penalties. Those who violate this section are subject to the penalties set forth in 33 U.S.C. 1232.


Eric J. Doucette,
Captain, U.S. Coast Guard, Captain of the Port Boston.

[FR Doc. 2020–20625 Filed 9–29–20; 8:45 am]

BILLING CODE 9110–04–P
not be considered to include a petition for a foreign filing license. Where an application was filed abroad through error without the required license under § 5.11 first having been obtained, applicants should consider filing a petition for retroactive license under § 5.25.

Section 5.15: Section 5.15(a) is amended for clarity to include a reference to § 5.11(b) concerning the export of technical data. In addition, “foreign patent agency or international patent agency” is changed to “foreign or international intellectual property authority.” See discussion of § 5.1(b)(2), supra. Section 5.15(a) is also amended to clarify that the grant of the license also covers material submitted under § 5.13, where there is no corresponding U.S. application. Paragraphs (b) and (e) of § 5.15 are amended consistent with the amendments to § 5.15(a).

Comments and Responses to Comments: The USPTO published a notice of proposed rulemaking on January 30, 2020, proposing to change the rules of practice to facilitate the use of WIPO’s ePCT system for U.S. applicants. See Facilitating the Use of WIPO's ePCT System To Prepare International Applications for Filing With the United States Receiving Office, 85 FR 5362 (Jan. 30, 2020). The USPTO received three comments from five submitters—more particularly, from a law firm, individual patent practitioners, and the general public—in response to the notice of proposed rulemaking. The summarized comments and the USPTO’s responses to those comments follow:

Comment 1: While all the written submissions received supported the proposed rule changes, several submitters also requested that the USPTO expressly state, in this final rule, that the warnings set forth in the notice titled Use of WIPO’s ePCT System for Preparing the PCT Request for Filing as Part of an International Application with the USPTO as Receiving Office, 81 FR 27417 (May 6, 2016) (hereafter “2016 notice”) no longer apply. Those comments explained that such a statement would help in training and outreach efforts to encourage the use of ePCT, which, in turn, would benefit applicants, patent practitioners, and offices.

Response: The USPTO agrees that as a result of this rulemaking, the warning in the 2016 notice regarding exporting subject matter, pursuant to a foreign filing license from the USPTO, into ePCT, is no longer applicable. However, applicants are cautioned that the warnings in the 2016 notice are still applicable in the limited situations where the applicant either does not have a foreign filing license or would be exporting additional subject matter not included within the scope of the foreign filing license from the USPTO.

Comment 2: Several submitters requested the USPTO develop a mechanism to facilitate updating bibliographic data in PCT applications, similar to the mechanism available through ePCT.

Response: The USPTO notes the request to develop a mechanism to facilitate updating of bibliographic data in PCT applications. While such a mechanism would provide some benefits to PCT users, the process for evaluating and prioritizing information technology projects within the USPTO is beyond the scope of this final rule. The USPTO intends to consider the request raised in the comment through the appropriate internal processes.

Comment 3: One submitter, while supporting the proposed rule changes stated that the changes would make it easier for foreign filers to file their PCT applications in the United States, and said that this was necessary because U.S. inventors already have this benefit when filing a PCT application in the other member states.

Response: The commenter appears to have misunderstood the purpose of this rule. The revised rules change neither who may file a PCT application with the RO/US, nor who may represent such applicants before the RO/US. See 35 U.S.C. 361 and § 1.421 regarding who may file a PCT application with the RO/US, and § 1.455 regarding who may represent a PCT applicant before the USPTO.

Rulemaking Considerations
A. Administrative Procedure Act: This document makes changes to the rules of practice to facilitate the use of WIPO’s ePCT system to prepare international applications for filing with the RO/US. The changes being made in this document do not change the substantive criteria of patentability. These changes involve rules of agency practice and procedure, and/or interpretive rules. See Bachow Commc’ns Inc. v. FCC, 237 F.3d 683, 690 (D.C. Cir. 2001) (rules governing an application process are procedural under the Administrative Procedure Act); Inova Alexandria Hosp. v. Shalala, 244 F.3d 342, 350 (4th Cir. 2001) (rules for handling appeals are procedural where they do not change the substantive standard for reviewing claims); Nat’l Org. of Veterans’ Advocates v. Sec’y of Veterans Affairs,
260 F.3d 1365, 1375 (Fed. Cir. 2001) (rule that clarifies interpretation of a statute is interpretive). Accordingly, prior notice and opportunity for public comment for these changes are not required pursuant to 5 U.S.C. 553(b) or (c) (or any other law). See Cooper Techs. Co. v. Dudas, 536 F.3d 1330, 1336–37 (Fed. Cir. 2008) (stating that 5 U.S.C. 553, and thus 35 U.S.C. 2(b)(2)(B), do not require notice and comment rulemaking for “interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice”) (quoting 5 U.S.C. 553(b)(A)). The USPTO, however, published the proposed changes for comment because it sought the benefit of the public’s views on the USPTO’s implementation of the proposed rule changes.

B. Regulatory Flexibility Act: For the reasons set forth herein, the Senior Counsel for Regulatory and Legislative Affairs in the Office of General Law of the USPTO has certified to the Chief Counsel of the Small Business Administration that changes in this document will not have a significant economic impact on a substantial number of small entities. See 5 U.S.C. 605(b).

The changes made in this document will facilitate the use of WIPO’s ePCT system to prepare international applications for filing with the RO/US and will apply to any entity, including a small or micro entity, that uses ePCT to prepare an international patent application under the PCT for filing with the RO/US. The changes made in this document will not result in a change in the burden imposed on any patent applicant, including a small entity.

For the foregoing reasons, the changes made in this document will not have a significant economic impact on a substantial number of small entities.

C. Executive Order 12866 (Regulatory Planning and Review): This rulemaking has been determined to be not significant for purposes of Executive Order 12866 (Sept. 30, 1993).

D. Executive Order 13563 (Improving Regulation and Regulatory Review): The USPTO has complied with Executive Order 13563. Specifically, the USPTO has, to the extent feasible and applicable: (1) Made a reasoned determination that the benefits justify the costs of the rule; (2) tailored the rule to impose the least burden on society consistent with obtaining the regulatory objectives; (3) selected a regulatory approach that maximizes net benefits; (4) quantified the benefits and costs; (5) identified and assessed available alternatives; (6) involved the public in an open exchange of information and perspectives among experts in relevant disciplines, affected stakeholders in the private sector, and the public as a whole, and provided online access to the rulemaking docket; (7) attempted to promote coordination, simplification, and harmonization across government agencies and identified goals designed to promote innovation; (8) considered approaches that reduce burdens and maintain flexibility and freedom of choice for the public; and (9) ensured the objectivity of scientific and technological information and processes.

E. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs): This final rule is not expected to be an Executive Order 13771 regulatory action because the final rule would not be significant under Executive Order 12866.

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

G. Executive Order 13175 (Tribal Consultation): This rulemaking will not: (1) Have substantial direct effects on one or more Indian tribes; (2) impose substantial direct compliance costs on Indian tribal governments; or (3) preempt tribal law. Therefore, a tribal summary impact statement is not required under Executive Order 13175 (Nov. 6, 2000).

H. Executive Order 13211 (Energy Effects): This rulemaking is not a significant energy action under Executive Order 13211 because this rulemaking is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required under Executive Order 13211 (May 18, 2001).

I. Executive Order 12988 (Civil Justice Reform): This rulemaking meets applicable standards to minimize litigation, eliminate ambiguity, and reduce burden as set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Feb. 5, 1996).

J. Executive Order 13045 (Protection of Children): This rulemaking does not concern an environmental risk to health or safety that may disproportionately affect children under Executive Order 13045 (Apr. 21, 1997).

K. Executive Order 12630 (Taking of Private Property): This rulemaking will not affect a taking of private property or otherwise have taking implications under Executive Order 12630 (Mar. 15, 1988).

L. Congressional Review Act: Under the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 et seq.), prior to issuing any final rule, the USPTO will submit a report containing the final rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the Government Accountability Office. The changes in this document are not expected to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, this document is not expected to result in a “major rule” as defined in 5 U.S.C. 804(2).

M. Unfunded Mandates Reform Act of 1995: The changes set forth in this document do not involve a Federal intergovernmental mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, of $100 million (as adjusted) or more in any one year, or a Federal private sector mandate that will result in the expenditure by the private sector of $100 million (as adjusted) or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995. See 2 U.S.C. 1501 et seq.

N. National Environmental Policy Act of 1969: This rulemaking will not have any effect on the quality of the environment and is thus categorically excluded from review under the National Environmental Policy Act of 1969. See 42 U.S.C. 4321 et seq.

O. National Technology Transfer and Advancement Act of 1995: The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) are not applicable because this rulemaking does not contain provisions that involve the use of technical standards.

P. Paperwork Reduction Act of 1995: The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) requires that the USPTO consider the impact of paperwork and other information collection burdens imposed on the public. This rulemaking involves information collection requirements that are subject to review by Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.
1. The authority citation for 37 CFR part 5 is revised to read as follows:


2. Section 5.1 is amended by revising paragraph (b)(2) to read as follows:

§ 5.1 Applications and correspondence involving national security.

(b) Applications or other materials that were required to be made available for inspection under 35 U.S.C. 184 for the subject matter of the foreign application correspond to that of the United States Patent and Trademark Office when the technical data and subject matter to, or divisions of, a foreign application, if such changes to the application do not alter the general nature of the invention in a manner that would require the United States application to have been made available for inspection under 35 U.S.C. 181. Grant of this license authorizes the export of technical data pursuant to § 5.11(b) and the filing of an application in a foreign country or with any foreign or international intellectual property authority when the technical data and the subject matter of the foreign application correspond to that of the application or other materials reviewed pursuant to §§ 5.12 through 5.14, upon which the license was granted. This license includes the authority:

(1) To export and file all duplicate and formal application papers in foreign countries or with foreign or international intellectual property authorities;

(b) Applications or other materials that were required to be made available for inspection under 35 U.S.C. 181 will be eligible for a license of the scope provided in this paragraph (b). Grant of this license authorizes the export of technical data pursuant to § 5.11(b) and the filing of an application in a foreign country or with any foreign or international intellectual property authority when the technical data and the subject matter of the foreign application correspond to that of the application or other materials reviewed pursuant to §§ 5.12 through 5.14, upon which the license was granted. This license includes the authority:

(1) To export and file all duplicate and formal application papers in foreign countries or with foreign or
involves the disclosure of additional subject matter listed in paragraph (a)(3)(i) or (ii) of this section must be separately licensed in the same manner as a foreign application. Further, if no license has been granted under § 5.12(a) after filing the corresponding United States application, any paper filed abroad or with a foreign or international intellectual property authority that involves the disclosure of additional subject matter must be licensed in the same manner as a foreign application.

* * * * *


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

[FR Doc. 2020–18743 Filed 9–29–20; 8:45 am]

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POSTAL SERVICE

39 CFR Part 20

International Mail Manual; Incorporation by Reference

AGENCY: Postal Service™.

ACTION: Final rule.


DATES: This final rule is effective on September 30, 2020. The incorporation by reference of the IMM is approved by the Director of the Federal Register as of September 30, 2020.

FOR FURTHER INFORMATION CONTACT: Dale Kennedy, (202) 258–6592.

SUPPLEMENTAL INFORMATION: The International Mail Manual was issued on July 1, 2020, and was updated with Postal Bulletin revisions through June 18, 2020. It replaced all previous editions. The IMM continues to enable the Postal Service to fulfill its long-standing mission of providing affordable, universal mail service. It continues to: (1) Increase the user’s ability to find information; (2) increase the user’s confidence that he or she has found the information they need; and (3) reduce the need to consult multiple sources to locate necessary information. The provisions throughout this issue support the standards and mail preparation changes implemented since the version of March 4, 2019. The International Mail Manual is available to the public on the Postal Explorer® internet site at http://pe.usps.com.

List of Subjects in 39 CFR Part 20

Foreign relations; Incorporation by reference.

In view of the considerations discussed above, the Postal Service hereby amends 39 CFR part 20 as follows:

PART 20—INTERNATIONAL POSTAL SERVICE

1. The authority citation for part 20 continues to read as follows:


2. Revise § 20.1 to read as follows:


(a) Mailing Standards of the United States Postal Service, International Mail Manual (IMM®) is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51.

(b) The current issue of the IMM is incorporated by reference, see § 20.1.

(c) New issues of the IMM will be incorporated by reference into this part and will be available at http://pe.usps.gov. The text of amendments to the International Mail Manual will be published in the Federal Register and will be available in the Postal Bulletin, copies of which may be accessed at http://www.usps.com/cpim/ftp/bulletin/ph.htm. Successive issues of the IMM are listed in Table 1 to this section.

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