only when notice and comment are required by the APA or other law, are not applicable. These amendments do not contain any collection of information requirements as defined by the Paperwork Reduction Act of 1995. *See* 5 CFR 1320.3. Further, because the amendments impose no new burdens on private parties, the Commission does not believe that the amendments will have any impact on competition for purposes of Section 23(a)(2) of the Securities Exchange Act of 1934. 15 U.S.C. 78w(a)(2).

III. Statutory Authority

This rule is adopted pursuant to statutory authority granted to the Commission, including Section 19 of the Securities Act of 1933, 15 U.S.C. 77s; Sections 4A, 4B, and 23 of the Exchange Act, 15 U.S.C. 78d–1, 78d–2, and 78w; Section 38 of the Investment Company Act of 1940, 15 U.S.C. 80a–37; Section 211 of the Investment Advisers Act of 1940, 15 U.S.C. 80b–11; and Section 3 of the Sarbanes-Oxley Act of 2002, 15 U.S.C. 7202.

List of Subjects in 17 CFR Part 200

Administrative practice and procedure, Authority delegations (Government agencies).

For the reasons set out in the preamble, the Commission is amending Title 17, Chapter II of the Code of Federal Regulations as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Subpart A—Organization and Program Management

■ 1. The general authority citation for part 200, subpart A continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77o, 77s, 77z–3, 77sss, 78d, 78d–1, 78d–2, 78o–4, 78w, 78*ll*(d), 78mm, 80a–37, 80b–11, 7202, and 7211 *et seq.,* unless otherwise noted.

* * * * *

■ 2. Amend § 200.30–14 by:
■ a. Redesignating paragraphs (f) through (o) as paragraphs (g) through (p); and
■ b. Adding new paragraph (f).

The addition reads as follows.

§ 200.30–14 Delegation of authority to the General Counsel.

* * * * *

(f) In bankruptcy cases, to take the following actions with respect to plan or settlement provisions that have the effect of releasing, exculpating, discharging, or permanently enjoining actions against non-debtor third parties in contravention of Section 524(e) of the Bankruptcy Code or applicable law:

(1) Object to approval of disclosure statements, including on the basis that the disclosure statement lacks adequate information under Section 1125(b) to support such release provisions;

(2) Object to confirmation of bankruptcy plans; or

(3) Object to approval of settlements.

* * * * *

By the Commission.

Dated: February 19, 2020.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2020–03705 Filed 2–28–20; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. PTO–P–2019–0035]

Clarification of the Practice for Requiring Additional Information in Petitions Filed in Patent Applications and Patents Based on Unintentional Delay

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Clarification.

SUMMARY: The United States Patent and Trademark Office (USPTO) is clarifying its practice as to situations that will require additional information about whether a delay in seeking the revival of an abandoned application, acceptance of a delayed maintenance fee payment, or acceptance of a delayed priority or benefit claim was unintentional.

DATES: The clarification of practice set forth is applicable to any petition decided on or after March 2, 2020.

FOR FURTHER INFORMATION CONTACT: Christina Tartera Donnell, Attorney Advisor, Office of Petitions, by telephone at 571–272–3211; or Douglas I. Wood, Attorney Advisor, Office of Petitions, by telephone at 571–272–3231; or by mail addressed to: Mail Stop Comments-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450.

SUPPLEMENTARY INFORMATION: Title II of the PLTIA amended the provisions of title 35, United States Code (U.S.C.), to implement the Patent Law Treaty (PLT). *See* Public Law 112–211, § 201–203, 126 Stat. 1527, 1533–37 (2012). Section 201(b) of the PLTIA added a new 35 U.S.C. 27, which expressly provides that the director of the USPTO may establish procedures to revive an unintentionally abandoned application for patent or accept an unintentionally delayed issue fee payment, upon petition by the applicant for patent or patent owner. *See* Public Law 112–211, 201(b)(1), 126 Stat. at 1534. Section 202(b)(1)(B) of the PLTIA amended 35 U.S.C. 41(c)(1) to provide that the director may accept the payment of any maintenance fee required by 35 U.S.C. 41(b) after the six-month grace period if the delay is shown to the satisfaction of the director to have been unintentional. *See* Sec. 202(b)(1)(B), Public Law 112–211, 126 Stat. at 1535–36. The 18-month publication provisions of the American Inventors Protection Act of 1999 (AIPA) amended 35 U.S.C. 119 and 120 to provide that a priority claim for a foreign or international application and a benefit claim to an earlier domestic provisional or nonprovisional application must be filed within the period required by the USPTO, but that the USPTO may establish procedures to accept an unintentionally delayed priority or benefit claim. *See* Public Law 106–113, 113 Stat. 1501, 1501A–563 through 1501A–564 (1999).

The USPTO revised the rules of practice to implement the 18-month publication provisions of section 4503 of the AIPA in September 2000. This included revising the rules of practice pertaining to foreign priority and domestic benefit claims (37 CFR 1.55 and 1.78) to set a time period within which such priority and benefit claims must be filed, and to provide for the acceptance of unintentionally delayed priority or benefit claims. *See* Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57024–25, 57030–31, 57053–55 (September 20, 2000). The USPTO revised the rules of practice for consistency with the PLT and title II of the PLTIA in October 2013. This included revising the rules of practice pertaining to the revival of abandoned applications (37 CFR 1.137) and acceptance of delayed maintenance fee payments (37 CFR 1.378) to provide for the revival of abandoned applications and acceptance of delayed maintenance fee payments solely on the basis of ''unintentional'' delay, as well as revisions to the rules of practice pertaining to foreign priority and domestic benefit claims (37 CFR 1.55 and 1.78). *See* Changes to Implement the Patent Law Treaty, 78 FR 62368, 62377–78, 62380–83, 62399–400, 62402–07 (October 21, 2013).

The provisions for the revival of an abandoned application (37 CFR 1.137)

require a petition including, inter alia, a statement that the entire delay in filing the required reply, from the due date of the reply until the filing of a grantable petition, was unintentional, but also provide that ''[t]he Director may require additional information where there is a question whether the delay was unintentional'' (37 CFR 1.137(b)(4)). The provisions for the acceptance of a delayed maintenance fee payment (37 CFR 1.378) similarly require a petition including, inter alia, a statement that the delay in payment of the maintenance fee was unintentional, but also provide that ''[t]he Director may require additional information where there is a question whether the delay was unintentional'' (37 CFR 1.378(b)(3)). The provisions for the acceptance of a delayed priority or benefit claim (37 CFR 1.55 and 1.78) likewise require a statement that the delay between the date the claim was due and the date the claim was filed was unintentional, but also provide that ''[t]he Director may require additional information where there is a question whether the delay was unintentional'' (37 CFR 1.55(e)(4), 1.78(c)(3) and (e)(3)).

The USPTO is clarifying its practice as to situations that will require additional information about whether a delay in seeking the revival of an abandoned application, acceptance of a delayed maintenance fee payment, or acceptance of a delayed priority or benefit claim was unintentional. Specifically, the USPTO will require additional information in these cases, first, when a petition to revive an abandoned application is filed more than two years after the date the application became abandoned; second, when a petition to accept a delayed maintenance fee payment is filed more than two years after the date the patent expired for nonpayment; and third, when a petition to accept a delayed priority or benefit claim is filed more than two years after the date the priority or benefit claim was due. *See, e.g.,* Changes to Patent Practice and Procedure, 62 FR 53131, 53158–59, 53161 (October 10, 1997) (the length of the delay in filing a petition to revive may itself raise a question as to whether the delay was unintentional, and thus the USPTO may require additional information as to the cause of the delay when a petition to revive is not filed promptly). The reason for requiring additional information in cases where there has been an extended delay—a delay of more than two years from the date the application became abandoned, the patent expired, or a priority or benefit claim was due—until the filing of a petition, is to ensure that, in situations where there has been such an extended delay in filing the petition, the USPTO is provided with sufficient information of the facts and circumstances surrounding the entire delay to support a conclusion that the entire delay was ''unintentional.''

Section 711.03(c) of the Manual of Patent Examining Procedure (MPEP) discusses the ''unintentional'' delay standard with respect to petitions to revive an abandoned application, but its discussion of the ''unintentional'' delay is generally applicable to any petition under the ''unintentional'' delay standard. The USPTO usually relies upon the applicant's duty of candor and good faith and accepts the statement that the entire delay was unintentional without requiring further information because the applicant or patentee is obligated under 37 CFR 11.18 to inquire into the underlying facts and circumstances when providing this statement to the USPTO. *See* MPEP § 711.03(c), subsection II.C. An extended period of delay (*i.e.,* more than two years from the date the application became abandoned, the patent expired, or a priority or benefit claim was due) in filing a petition to revive an application, accept a delayed maintenance fee payment, or accept a delayed priority or benefit claim, however, raises a question as to whether the entire delay was unintentional. This may create uncertainty and unpredictability relating to patent rights in that there is a greater likelihood that the entire delay may not be ''unintentional'' within the meaning of 37 CFR 1.55, 1.78, 1.137, and 1.378, as compared to a petition that was filed within a shorter time period after the abandonment of the application, expiration of the patent, or due date for a priority or benefit claim. An applicant or patentee cannot meet the ''unintentional delay'' standard in 37 CFR 1.55(e), 1.78(c) and (e), 1.137(a), or 1.378(b) if the entire delay is not unintentional. *See* MPEP 711.03(c), subsections II.C. through F.

Furthermore, providing an inappropriate statement that the delay was ''unintentional'' may have an adverse effect when attempting to enforce the patent. *See In re Rembrandt Technologies LP Patent Litigation,* 899 F.3d 1254, 1272–73 (Fed. Cir. 2018) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the delay was unintentional). Revival of an application, reinstatement of a patent, or acceptance of a priority or benefit claim after an extended delay (*i.e.,* more than two years since the date of abandonment, expiration of the patent, or due date of the priority claim) can also create uncertainty and unpredictability relating to patent rights because the abandoned status of an application, or the expired status of a patent, or an absence of the priority or benefit claim, may be relied upon by other parties. Requiring additional information in these situations will improve the reliability and predictability of patent rights by ensuring that only applications and patents in which the entire delay was unintentional are revived or reinstated, and only priority or benefit claims for which the entire delay was unintentional are accepted.

Accordingly, any applicant filing a petition to revive an abandoned application under 37 CFR 1.137 more than two years after the date of abandonment, any patentee filing a petition to accept a delayed maintenance fee under 37 CFR 1.378 more than two years after the date of expiration for nonpayment of a maintenance fee, and any applicant or patent owner filing a petition to accept a delayed priority or benefit claim under 37 CFR 1.55(e) or 1.78(c) and (e) more than two years after the due date of the priority or benefit claim should expect to be required to provide an additional explanation of the circumstances surrounding the delay that establishes that the entire delay was unintentional. This requirement is in addition to the requirement to provide a statement that the entire delay was unintentional in 37 CFR 1.137(b)(4) and 1.378(b)(3), or 1.55(e)(4), or 1.78(c)(3) and (e)(3).

The USPTO may revisit the two-year time period established in this notice for requiring an additional explanation as to whether a delay is unintentional at a future point and may adjust the time period based on an evaluation of whether a two-year time period is appropriate for requesting additional information when determining whether a period of delay is unintentional. Nothing in this notice should be taken as an indication that the USPTO will only require additional information in consideration of a petition to revive an abandoned application under 37 CFR 1.137 filed more than two years after the date the application became abandoned, a petition to accept a delayed maintenance fee payment in an expired patent under 37 CFR 1.378 filed more than two years after the date the patent expired, or a petition under 37 CFR 1.55(e) or 1.78(c) or (e) to accept a delayed priority or benefit claim filed more than two years after the due date of the priority or benefit claim. The USPTO may require additional information whenever there is a

question as to whether the delay was unintentional.

Dated: February 18, 2020.

Andrei Iancu,

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

[FR Doc. 2020–03715 Filed 2–28–20; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 31

[FRL–10005–45–OECA]

RIN 2020–AA53

On-Site Civil Inspection Procedures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is promulgating this rule of Agency procedure to fulfill the objectives outlined in the October 9, 2019 Executive Order (E.O.) 13892, *Promoting the Rule of Law Through Transparency and Fairness in Civil Administrative Enforcement and Adjudication.* This rule describes certain Agency procedures for conducting on-site civil inspections, as contemplated by section 7 of E.O. 13892, *Ensuring Reasonable Administrative Inspections.* This rule applies to on-site civil inspections conducted by federally credentialed EPA civil inspectors, federally credentialed contractors and Senior Environmental Employment (SEE) employees conducting inspections on behalf of EPA.

DATES: This rule is effective March 2, 2020.

FOR FURTHER INFORMATION CONTACT: Chad Carbone (202–564–2523), Office Enforcement and Compliance Assurance (2221A), U.S. Environmental Protection Agency, Washington, DC 20460; telephone number: (202) 564–2523; fax number: (202) 564–0050; email: *carbone.chad@epa.gov.*

SUPPLEMENTARY INFORMATION: The following outline is provided to assist the reader in locating topics of interest in the rule.

Table of Contents

I. General Information

A. Does this action apply to me?

This rule applies to all federally credentialed EPA civil inspectors, federally credentialed contractors and Senior Environmental Employment (SEE) employees conducting inspections on behalf of EPA. As an internal rule of Agency procedure, the rule does not apply to federally credentialed state and tribal inspectors conducting inspections on EPA's behalf. This rule describes certain important aspects of the Agency's process of conducting on-site civil inspections and does not alter the rights or interests of parties or any person or entity outside the EPA.

B. What action is the Agency taking?

The purpose of this rulemaking is to provide direction to agency personnel on how to conduct EPA on-site civil administrative inspections, as required by section 7 of E.O. 13892, entitled *Ensuring Reasonable Administrative Inspections,* and which states: ''Within 120 days of the date of this order, each agency that conducts civil administrative inspections shall publish a rule of agency procedure governing such inspections, if such a rule does not already exist. Once published, an agency must conduct inspections of regulated parties in compliance with the rule.'' This rulemaking addresses the common elements applicable to on-site civil inspections for compliance with all of the environmental laws that EPA implements. The specific activities that may occur during an inspection may vary depending on the facility and the statutory authority upon which the inspection is based. It is also important to note that EPA inspections are only one type of compliance monitoring activity that EPA conducts in order to help evaluate compliance. The primary focus of inspections is on recording observations and gathering information. As such, compliance determinations are an independent process that rely upon a myriad of information and are reviewed by Agency attorneys and management.

C. What is the Agency's authority for taking the action?

EPA's authority to issue this procedural rule is contained in the: Clean Air Act (CAA): 42 U.S.C. 7414, 7525, 7542, 7603, 7621; Clean Water Act (CWA): 33 U.S.C. 1318, 1321, 1364, 1367; Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (Superfund): 42 U.S.C. 9604, 9606, 9622, Executive Order 12580, section 2(j)(2); Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA): 7 U.S.C. 136; Resource Conservation and Recovery Act (RCRA): 42 U.S.C. 6908, 6912, 6927, 6928, 6934, 6971, 6973, 6991, 6992; Safe Drinking Water Act (SDWA): 42 U.S.C. 300; and the Toxic Substances Control Act (TSCA): 15 U.S.C. 2610. EPA is also issuing this rule under its housekeeping authority. Section 301 of Title 5 U.S.C. authorizes an agency head to prescribe regulations governing his or her department and the performance of its business, among other purposes. EPA gained housekeeping authority through the Reorganization Plan No. 3 of 1970, 84 Stat. 2086 (July 9, 1970), as recognized by the U.S. Department of Justice Office of Legal Counsel. *See* ''Authority of EPA to Hold Employees Liable for Negligent Loss, Damage, or Destruction of Government Personal Property,'' 32 O.L.C. 79, 2008 WL 4422366 at *4 (May 28, 2008). As a rule of Agency procedure this rule is exempt from the notice and comment requirements set forth in the Administrative Procedure Act. *See* 5 U.S.C. 553(b)(A).

II. Background

A. General Overview of On-Site Civil Inspections

Below is a general overview of the process for conducting on-site civil inspections. To ensure greater transparency and clearer direction to its inspectors, the Agency is codifying the major elements of inspections it carries out in its civil enforcement of environmental laws. (This rule does not apply to investigations of environmental crimes.) This overview also provides information regarding additional activities that may occur during the civil inspection process.

1. Timing of Inspections and Facility Notification

EPA inspectors should generally conduct inspections during the facility's normal work hours. However, there may be circumstances which require EPA inspectors to access, monitor, or observe specific operations or activities at other times. Where possible, for announced