

possess, carry, and transport concealed, loaded, and operable firearms within a national wildlife refuge in accordance with the laws of the state in which the wildlife refuge, or that portion thereof, is located, except as otherwise prohibited by applicable Federal law.

Dated: December 5, 2008.

**Lyle Laverty,**

*Assistant Secretary of the Interior for Fish and Wildlife and Parks.*

[FR Doc. E8-29249 Filed 12-9-08; 8:45 am]

BILLING CODE 4312-52-P

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

#### 37 CFR Part 41

[Docket No.: PTO-P-2007-0006]

RIN 0651-AC12

#### Rules of Practice Before the Board of Patent Appeals and Interferences in Ex Parte Appeals; Delay of Effective and Applicability Dates

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

**ACTION:** Final rule; delay of effective and applicability dates.

**SUMMARY:** On June 10, 2008, the United States Patent and Trademark Office (Office) published the final rule that amends the rules governing practice before the Board of Patent Appeals and Interferences (BPAI) in *ex parte* patent appeals. The final rule states that the effective date is December 10, 2008, and that the final rule shall apply to all appeals in which an appeal brief is filed on or after the effective date. On June 9, 2008, the Office published a 60-Day **Federal Register** Notice requesting the Office of Management and Budget (OMB) to establish a new information collection for BPAI items in the final rule and requesting public comment on the burden impact of the final rule under the provisions of the Paperwork Reduction Act (PRA). On October 8, 2008, the Office published a 30-Day **Federal Register** Notice stating that the proposal for the collection of information under the final rule was being submitted to OMB and requesting comments on the proposed information collection be submitted to OMB. The proposed information collection is currently under consideration by OMB. Since the review by OMB has not been completed, the Office is hereby notifying the public that the effective and applicability date of the final rule is not December 10, 2008. The effective

and applicability dates will be identified in a subsequent notice.

**DATES:** The effective date for the final rule published at 73 FR 32938, June 10, 2008, is delayed, pending completion of OMB review of the proposed information collection under the PRA. The Office will issue a subsequent notice identifying a revised effective date on which the final rule shall apply. **FOR FURTHER INFORMATION CONTACT:** Allen MacDonald, Administrative Patent Judge, at (571) 272-9797, or Kimberly Jordan, Chief Trial Administrator, at (571) 272-4683, Board of Patent Appeals and Interferences, directly by phone, or by facsimile to (571) 273-0043, or by mail addressed to: Mail Stop Board of Patents Appeals and Interferences, P.O. Box 1450, Alexandria, VA 22313-1450.

**SUPPLEMENTARY INFORMATION:** On June 10, 2008, the United States Patent and Trademark Office (Office) published the final rule that amends the rules governing practice before the Board of Patent Appeals and Interferences (BPAI) in *ex parte* patent appeals. See *Rules of Practice Before the Board of Patent Appeals and Interferences in Ex Parte Appeals*; Final Rule, 73 FR 32938 (June 10, 2008), 1332 *Off. Gaz. Pat. Office* 47 (July 1, 2008) (hereinafter "BPAI final rule 2008"). The BPAI final rule 2008 states that the effective date is December 10, 2008, and that the final rule shall apply to all appeals in which an appeal brief is filed on or after the effective date.

On June 9, 2008, the Office published a new information collection request for OMB to review several BPAI items in the BPAI final rule 2008 as subject to the PRA. See *Board of Patent Appeals and Interferences Actions*; New Collection, Comment Request, 73 FR 32559 (June 9, 2008) (hereinafter "60-Day Notice"). In addition to requesting OMB to establish a new information collection, the 60-Day Notice invited comments from the public and other Federal agencies on the burden impact of the proposed information collection under the provisions of the PRA. The 60-Day Notice specified that comments were to be submitted on or before August 8, 2008.

On October 8, 2008, the Office published a notice that the proposed information collection was being submitted to OMB and public comments on the proposed collection were to be submitted to OMB on or before November 7, 2008. See *Submission for OMB Review*; *Comment Request*; 73 FR 58943 (October 8, 2008) (hereinafter "30-Day Notice"). On October 9, 2008, the Office filed a Supporting Statement

with OMB ([http://www.reginfo.gov/public/do/PRAViewDocument?ref\\_nbr=200809-0651-003](http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=200809-0651-003)). The Supporting Statement included the Office's response to comments received following the 60-Day Notice. The 30-Day Notice requested public comments be submitted to OMB on or before November 7, 2008.

The proposed information collection request is currently under consideration for approval by OMB. The review by OMB has not been completed. Therefore, the effective and applicability dates of the BPAI final rule 2008 will not be December 10, 2008. The Office will notify the public when the revised effective and applicability dates are set. In the subsequent notification, the Office will provide at least a 30-day time period before the BPAI final rule 2008 becomes effective.

On November 20, 2008, the Office published a clarification notice on the effective date provision. See *Clarification of the Effective Date Provision in the Final Rule for Ex Parte Appeals*, 73 FR 70282 (November 20, 2008). As indicated in the clarification notice, the Office will not hold an appeal brief as non-compliant solely for following the new format even though it is filed before the effective date. Thus, appeal briefs filed before the effective date of the BPAI final rule 2008 (yet to be determined) must either comply with current 37 CFR 41.37 (which remains in effect) or revised 37 CFR 41.37 (the effective date of which has yet to be determined). Furthermore, the Office has posted a list of questions and answers on the USPTO Web site (at <http://www.uspto.gov/web/offices/dcom/bpai/rule.html>) regarding the implementation of the BPAI final rule 2008. These questions and answers will be revised accordingly.

Dated: December 5, 2008.

**Jon W. Dudas,**

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

[FR Doc. E8-29297 Filed 12-9-08; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA-HQ-OPP-2007-0672; FRL-8390-8]

#### Mefenpyr-diethyl and Metabolites; Pesticide Tolerance

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

**ACTION:** Final rule.