

protection need not be incompatible. We have also determined that this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. Nevertheless, Indian Tribes that have questions concerning the provisions of this rule or options for compliance are encouraged to contact the point of contact listed under **FOR FURTHER INFORMATION CONTACT**.

Energy Effects

We have analyzed this rule under Executive order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedure; and related management system practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy

Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This event establishes a safety zone; therefore paragraph (34)(g) of the Instruction applies.

A final "Environmental Analysis Check List" and "Categorical Exclusion Determination" are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary § 165.T09–116 is added as follows:

§ 165.T09–116 Safety zone; Winnetka Fireworks, Lake Michigan, Winnetka, IL.

(a) *Location.* The following area is a temporary safety zone: all waters of Lake Michigan within the arc of a circle with a 900-foot radius from the fireworks launch site located in position 42°06'23" N, 087°43'12" W. (NAD 83).

(b) *Effective period.* This zone is effective from 8:30 p.m. on September 15, 2007 to 10:30 p.m. on September 15, 2007.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan, or his on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Lake Michigan or his on-scene representative.

(3) The "on-scene representative" of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port to act on his behalf.

The on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Lake Michigan or his on-scene representative to obtain permission to do so. The Captain of the Port or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Lake Michigan or his on-scene representative.

Dated: August 27, 2007.

B.C. Jones,

Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.

[FR Doc. E7–17717 Filed 9–7–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. PTO–C–2006–0057]

RIN 0651–AC09

April 2007 Revision of Patent Cooperation Treaty Procedures

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (USPTO or Office) is revising the rules of practice in title 37 of the Code of Federal Regulations (CFR) to conform them to certain amendments made to the Regulations under the Patent Cooperation Treaty (PCT) that took effect on April 1, 2007. These amendments result in the addition of a mechanism to the PCT system whereby applicants may request that the right to claim priority be restored in applications that meet certain requirements. In addition, these amendments provide a means for applicants to insert a missing portion of an international application without the loss of the international filing date. These amendments also clarify the circumstances and procedures under which the correction of an obvious mistake may be made in an international application. Finally, the Office is revising the search fee for international applications.

DATES: *Effective Date:* The changes to 37 CFR 1.57, 1.437, and 1.465 are effective

on September 10, 2007. The changes to 37 CFR 1.17 and 1.445 and the addition of 37 CFR 1.452, are effective on November 9, 2007.

Applicability Date: The changes to 37 CFR 1.57, 1.437, and 1.465 are applicable as of April 1, 2007, for international applications filed on or after that date. The changes to 37 CFR 1.17 and the addition of 37 CFR 1.452 are applicable as of November 9, 2007 for international applications filed on or after April 1, 2007. The changes to 37 CFR 1.445 are applicable to any international application having a receipt date that is on or after November 9, 2007.

FOR FURTHER INFORMATION CONTACT:

Richard R. Cole, Senior Legal Examiner, Office of PCT Legal Administration (OPCTLA) directly by telephone at (571) 272-3281, or by facsimile at (571) 273-0459.

SUPPLEMENTARY INFORMATION: During the September–October 2005 meeting of the Governing Bodies of the World Intellectual Property Organization (WIPO), the PCT Assembly adopted various amendments to the Regulations under the PCT that enter into force on April 1, 2007. The amended PCT Regulations were published in the PCT Gazette of February 23, 2006 (08/2006), in section IV, at pages 5496–5541. The purposes of these amendments are to: (1) Bring the provisions of the PCT into closer alignment with the provisions of the Patent Law Treaty (PLT); and (2) clarify the circumstances and procedures under which the correction of an obvious mistake may be made in an international application.

Alignment with the PLT: The PLT provides for: (1) Restoration of applicant's right to claim priority under certain situations (PLT Article 13(2)); (2) insertion of a missing portion of an application without the loss of the filing date (PLT Article 5(6)); and (3) substitution of the description and drawings upon filing with a reference to a previously filed application (PLT Article 5(7)). The present amendments to the PCT Regulations will provide similar mechanisms for applicants using the PCT system.

With regard to restoration of applicant's right to claim priority under certain situations (PLT Article 13(2)), PCT Rule 26*bis* has been amended to provide for the restoration of the right to claim priority in international applications which have been filed between twelve and fourteen months after the priority date and in which the delay in filing the international application was either in spite of due care or unintentional. It must be noted

that PCT Rule 49*ter* provides for designated Offices whose national law is incompatible with the PCT provisions concerning restoration of the right of priority to take a reservation with respect to the effects of this provision on national applications. The United States has taken this reservation pending passage of legislation that would implement the PLT in the United States. Therefore, any restoration of a right of priority by the United States Receiving Office under this section, or by any other Receiving Office under the provisions of PCT Rule 26*bis*.3, will not entitle applicants to a right of priority in any application which has entered the national stage under 35 U.S.C. 371, or in any application filed under 35 U.S.C. 111(a) which claims benefit under 35 U.S.C. 120 and 365(c) to an international application in which the right of priority has been restored. Whether or not applicant is entitled to the right of priority continues to be governed by whether applicant has satisfied the provisions of 35 U.S.C. 119, 120, and 365.

It must also be noted that even though restoration of such a right will not entitle applicant to the right of priority in a subsequent United States application, the priority date will still govern all PCT time limits, including the thirty-month period for filing national stage papers and fees under 37 CFR 1.495. PCT Article 2(ix), which defines "priority date" for purposes of computing time limits, contains no limitation that the priority claim be valid. Thus, for example, in an international application containing an earliest priority claim to a German application filed thirteen months prior to the filing date of the international application, the filing date of the German application will be used as the basis for computing time limits under the PCT, including the thirty-month time period set forth in 37 CFR 1.495 to submit the basic national fee (§ 1.492(a)) to avoid abandonment, even though applicant would not be entitled to priority to the German application in the United States national phase since the German application was filed more than twelve months from the international filing date. See 35 U.S.C. 119(a) and 365(b).

Concerning insertion of a missing portion of an application without the loss of the filing date through the use of an incorporation by reference statement (PLT Article 5(6)), PCT Rules 4 and 20 have been amended to allow for the inclusion of such an incorporation by reference statement on the PCT Request form. PLT Article 5(7) provides for the substitution of the entire description

and drawings upon filing with a reference to a previously filed application. While this provision could not be implemented to the extent provided in the PLT absent amendment of the PCT Articles, the amendments to PCT Rules 4 and 20 to allow for the inclusion of an incorporation by reference statement on the PCT Request form result in substantially the same outcome for applicants. Applicants may rely on this statement to insert portions of the international application (including the entire description, claims, and/or drawings) which were missing upon the international filing date without loss of their original filing date. 37 CFR 1.412(c)(1) already provides that the USPTO, in its capacity as a PCT Receiving Office, will accord international filing dates in accordance with PCT Rule 20. Therefore, no change to the rules of practice in title 37 CFR is necessary to implement these provisions, other than the deletion of 37 CFR 1.437(b) due to the fact that missing drawings are no longer handled in a manner different from the description and claims.

Similarly, no change to the rules of practice in title 37 CFR is necessary to implement the PCT Rule changes directed to clarifying the circumstances and procedures under which the correction of an obvious mistake may be made in an international application (PCT Rule 91). The U.S. Court of Appeals for the Federal Circuit has held that the Office's interpretation of the previous version of PCT Rule 91.1 to mean that correction of an obvious error is permitted under PCT Rule 91 only if the correction is obvious to the Office was unreasonable. See *Helfgott v. Dickinson*, 209 F.3d 1328, 1336, 54 USPQ2d 1425, 1430 (Fed. Cir. 2000). PCT Rule 91, however, has been amended to permit correction of an obvious error only "if, and only if, it is obvious to the competent authority that, as at the applicable date under [PCT Rule 91(f)], something else was intended than what appears in the document concerned and that nothing else could have been intended than the proposed rectification." See PCT Rule 91.1(c) (emphasis added). Therefore, any reliance upon the interpretation of the previous version of PCT Rule 91.1 in *Helfgott* should be carefully considered in view of the April 2007 amendment to PCT Rule 91.1. The USPTO will continue to implement PCT Rule 91 under the general authority granted under 35 U.S.C. 364(a), which provides that "[i]nternational applications shall be processed by the Patent and Trademark Office when acting as a

Receiving Office, International Searching Authority, or International Preliminary Examining Authority, in accordance with the applicable provisions of the treaty, the Regulations, and this title.”

Discussion of Specific Rules

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

Section 1.17: Section 1.17(t) is amended to set forth the fee for requesting restoration of the right of priority.

Section 1.57: Section 1.57(a)(2) is amended to reflect that omitted portions of international applications, which applicant desires to be effective in other designated States, must be submitted in accordance with PCT Rule 20.

Section 1.437: Section 1.437(a) is amended for clarity and to remove inaccurate language currently present in the paragraph. Section 1.437(b) is deleted to reflect the fact that missing drawings will no longer be treated differently from missing parts of the description or claims. Section 1.437(c) is redesignated as § 1.437(b).

Section 1.445: Section 1.445(a) is amended to set a search fee that more accurately reflects the cost of conducting a search and preparing a Chapter I written opinion in an international application. Recent cost analysis for the search and preparation of search and preparing Chapter I written opinions for international applications reveals that the average cost of this activity is over \$1,800.00. Therefore, the Office is revising § 1.445(a) to provide for a search fee (and supplemental search fee) of \$1,800.00. In addition, the Office is revising § 1.445(a) to provide that this \$1,800.00 search fee is applicable, regardless of whether there is a corresponding prior nonprovisional application under 35 U.S.C. 111(a), a corresponding prior provisional application under 35 U.S.C. 111(b), or no corresponding prior provisional or nonprovisional application under 35 U.S.C. 111. The Office formerly provided a reduced search fee if there is a corresponding prior nonprovisional application under 35 U.S.C. 111(a) and such application is adequately identified in the international application or accompanying papers at the time of filing the international application. The backlog of applications under 35 U.S.C. 111(a) awaiting examination is such that it is no longer deemed appropriate to provide a reduced fee or other incentive for applicants to file an application under 35 U.S.C. 111(a) prior to or essentially

parallel with the filing of an international application.

Section 1.452: Section 1.452 is added to provide for restoration of the right of priority in international applications (subject to the enumerated conditions and limitations). Certain changes have been made to this section from the previously proposed language in order to correct or eliminate inconsistencies between the section and the language of the PCT Regulations.

Section 1.452(a) provides that applicants may request restoration of the right of priority if the international application was filed within two months from the expiration of the priority period as defined by PCT Rule 2.4 and the delay in filing the international application was unintentional.

Section 1.452(b) provides that any request for restoration must be filed within fourteen months from the priority date and must be accompanied by: (1) A notice adding the priority claim, if applicable; (2) the requisite fee; and (3) a statement that the delay in filing the international application within the priority period was unintentional.

Section 1.452(c) provides that, in cases where applicant has requested early publication, the requirements under § 1.452(b) must be submitted prior to completion of the technical preparations for international publication.

Section 1.452(d) sets forth that restoration of a priority claim by the United States Receiving Office under this section, or by any other Receiving Office under the provisions of PCT Rule 26bis.3, will not entitle applicants to a right of priority in any application which has entered the national stage under 35 U.S.C. 371, or in any application filed under 35 U.S.C. 111(a) which claims benefit under 35 U.S.C. 120 and 365(c) to an international application in which the right to priority has been restored.

Section 1.465: Section 1.465(b) is amended for clarity and to remove the limitation that the priority claim must be “valid” in order to be used as the basis for computing time limits under the PCT.

Section 1.465(c) is deleted as unnecessary, as the obligation of the United States Receiving Office to proceed under PCT Rule 26bis.2 arises under 35 U.S.C. 361. In addition, reference to Rule 20.2(a)(i) or (iii) is no longer appropriate in view of the amendments to PCT Rule 20.

Section 1.497: Section 1.497(f)(1) is amended to reference PCT Rule 20.5(c) in that the reference to Rule 20.2 is no

longer appropriate in view of the amendments to PCT Rule 20. The change to this section was not included in the previously proposed language, but is necessary in order to correct inconsistencies between the section and the language of the PCT Regulations.

The Office published a notice proposing changes to the rules of practice to conform them to certain amendments made to the Regulations under the Patent Cooperation Treaty (PCT) that became effective on April 1, 2007, and to revise the search fee for international applications. See *April 2007 Revision of Patent Cooperation Treaty Procedures*, 72 FR 7583 (Feb. 16, 2007), 1316 *Off. Gaz. Pat. Office* 59 (Mar. 13, 2007). The Office received five comments (from intellectual property organizations, industry, and an individual patent practitioner) in response to this notice, and these comments are posted on the Office's Internet Web site. The comments and the Office's responses to the comments follow:

Comment 1: Several comments objected to setting the search fee at a level of \$1,800.00 on various grounds, including that it will have an impact on PCT users, that it could act as a deterrent to the use of the PCT, and that the amount is inconsistent with the fees charged in a U.S. national application.

Response: The salient point remains that the previous fee levels were significantly inadequate when compared with the actual costs incurred by the USPTO. Based on recent cost analysis for the search and preparation of the search reports and Chapter I written opinions for international applications, the search fee amounts being adopted in this final rule are a more accurate reflection of the average cost of these activities. The Office maintains that applicants seeking patent protection in foreign countries have sufficient alternatives (e.g., using the Paris route or selecting an ISA other than the USPTO/ISA) that the search fee amounts being adopted in this final rule will not have a significant impact on any patent applicant's ability to seek patent protection in foreign countries. That patent applicants also employ the PCT system for other purposes does not warrant maintaining PCT search fee at amounts inadequate to recover the USPTO's actual costs. Further, with regard to the arguments that the fee amount is inconsistent with the fees charged in a U.S. national application, the filing, search, and examination fees for U.S. national applications filed under 35 U.S.C. 111(a) and 371 are not set at an amount that recovers the actual costs of performing the search and

examination of such applications, because the USPTO also collects issue and maintenance fees in U.S. national applications that are allowed and issue as a patent. Since international applications under the PCT do not themselves mature into patents, the fees paid in international applications must more accurately reflect the costs to the Office.

Comment 2: Several comments also objected to the elimination of the reduction in the search fee in applications where there was a prior U.S. nonprovisional application. The commenters argued that some benefit is obtained by the Office even if, as a result in the Office's national application backlog, the search in the international application is performed prior to the search in the U.S. national application due to the fact that the results from the PCT search can then be used in the national application.

Response: As noted in the specific discussion of § 1.445 above, the actual costs related to the international search are over \$1800.00. The Office also recognizes that, if there is not a prior nonprovisional application, there is often a later filed national stage application filed under 35 U.S.C. 371, and that some benefit is obtained in that application as a result of the earlier PCT search. The amount of \$1800.00 for all international applications, regardless of whether there was a prior nonprovisional application, therefore takes into account both the fact that benefits are obtained when there is a prior national application as well as the fact that there is also some benefit obtained when there is a later filed national stage application.

Comment 3: One comment suggested that, with respect to the fact that the USPTO will only be deciding requests for the restoration of priority under the unintentional standard, the Office should also consider requests under the in spite of due care standard so as to not preclude applicants from the ability of receiving a favorable determination under such standard during the international stage.

Response: The International Bureau has indicated that they will process requests for restoration of priority under both standards. Therefore, for applicants who wish treatment under the in spite of due care standard, and who know at the time of filing that the priority period has expired, they have the option of filing the international application with the International Bureau as receiving Office. For those applicants who find out after they have filed the international application that the priority period has expired, and who

desire treatment under the in spite of due care standard, they may request that the application be transferred to the International Bureau as receiving Office under PCT Rule 19.4 in accordance with paragraph 166A. of the receiving Office Guidelines.

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 the 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). The significant changes in this final rule are: (1) Provisions for a restoration of a right of priority in certain limited situations; and (2) An adjustment of the search and supplemental search fee to more accurately reflect the cost of conducting a search and preparing a Chapter I written opinion in an international application.

The PCT enables United States applicants to file one application (an international or PCT application) in a standardized format in English in the United States Receiving Office (the United States Patent and Trademark Office) and have that application acknowledged as a regular national or regional filing in as many PCT Contracting States as the applicants desire to seek patent protection. See Manual of Patent Examining Procedure (MPEP) 1801. The primary benefit of the PCT system is the ability to delay the expense of submitting papers and fees to the PCT national offices. See MPEP 1801. The Office, in its capacity as a PCT Receiving Office, received about 42,900 international applications in fiscal year 2002, about 43,000 international applications in fiscal year 2003, about 45,400 international applications in fiscal year 2004, about 46,900 international applications in fiscal year 2005, and about 52,900 international applications in fiscal year 2006.

35 U.S.C. 376(b) provides that the Director shall prescribe the amount of the search fee, the supplemental search fee, and such other fees as established by the Director. Pursuant to the authority in 35 U.S.C. 376(b), this final rule adjusts the search fee in § 1.445(b)(2)(iii) and the supplemental search fee in § 1.445(b)(3) from \$1,000.00 to \$1,800.00 (an increase of \$800.00). This adjustment to the search fee and supplemental search fee makes these fees more accurately reflect the

cost of conducting a search and preparing a Chapter I written opinion in an international application.

The PCT does not preclude United States applicants from filing patent applications directly in the patent offices of those countries which are Contracting States of the PCT (with or without previously having filed a regular national application under 35 U.S.C. 111(a) or 111(b) in the United States) and taking advantage of the priority rights and other advantages provided under the Paris Convention and the World Trade Organization (WTO) administered Agreement on Trade-Related Aspects of Intellectual Property (TRIPs Agreement). See MPEP 1801. That is, the PCT is not the exclusive mechanism for seeking patent protection in foreign countries, but is instead simply an optional alternative route available to United States patent applicants for seeking patent protection in those countries that are Contracting States of the PCT. See *id.*

In addition, an applicant filing an international application under the PCT in the United States Receiving Office (the United States Patent and Trademark Office) is not required to use the United States Patent and Trademark Office as the International Searching Authority. The European Patent Office (except for applications containing business method claims) or the Korean Intellectual Property Office may be elected as the International Searching Authority for international applications filed in the United States Receiving Office. The applicable search fee if the European Patent Office is elected as the International Searching Authority is \$2,059.00 (set by the European Patent Office), and the applicable search fee if the Korean Intellectual Property Office is elected as the International Searching Authority is \$232.00 (set by the Korean Intellectual Property Office).

In 2003, the Government Accountability Office (GAO) released a report containing the results of a survey of an expert panel of patent law attorneys concerning small businesses considering foreign patent protection with respect to the "cradle to grave" costs of foreign patent protection. See *Experts' Advice for Small Businesses Seeking Foreign Patents*, GAO-03-910 (2003). The GAO concluded that the cost of obtaining and maintaining foreign patents to be in the range of \$160,000 to \$330,000. See *id.* at 41. Therefore, the international search fee increase of \$800.00 is not significant in comparison to the overall costs that a small entity must incur to obtain international patent protection.

Pursuant to the authority in 35 U.S.C. 376(b), this final rule eliminates the reduced search fee in § 1.445(b)(2)(i) or (ii) when there is a corresponding prior nonprovisional application under 35 U.S.C. 111(a) and thereby adjusts the search fee in the situation in which there is a corresponding prior nonprovisional application under 35 U.S.C. 111(a) from \$300.00 to \$1,800.00 (an increase of \$1,500.00). An applicant, however, has the option of filing a provisional application under 35 U.S.C. 111(b) (rather than a nonprovisional application under 35 U.S.C. 111(a)) or not filing a prior application before filing an international application. This adjustment to the search fee is also to make these fees more accurately reflect the cost of conducting a search and preparing a Chapter I written opinion in an international application. As discussed previously, the PCT is not the exclusive mechanism for seeking patent protection in foreign countries, and an applicant filing an international application is not required to use the United States Patent and Trademark Office as the International Searching Authority.

Pursuant to the authority in 35 U.S.C. 376(b), this final rule establishes a fee for filing a request for the restoration of the right of priority of \$1,370.00. This fee amount is identical to the fee amount for petitions to accept an unintentionally delayed claim for priority under 35 U.S.C. 119, 120, 121, or 365(a) (37 CFR 1.55 and 1.78). In addition, the Office anticipates that very few applicants will file a request for the restoration of the right of priority (about 100 each year, in comparison to the over 50,000 international applications filed in the United States Receiving Office each year).

For the reasons stated previously, the changes in this final rule will not have a significant economic impact on a substantial number of small entities.

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 significant for purposes of Executive Order 12866 (Sept. 30, 1993).

Paperwork Reduction Act: This notice 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 collection of information involved in this notice has been reviewed and approved by OMB under

OMB control number 0651-0021. The United States Patent and Trademark Office is not resubmitting an information collection package to OMB for its review and approval because the changes in this notice do not affect the information collection requirements associated with the information collection under OMB control number 0651-0021.

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 A. Clarke, 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 recordkeeping 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 1.17 is amended by revising paragraph (t) to read as follows:

§ 1.17 Patent application and reexamination processing fees.

* * * * *

(t) For the acceptance of an unintentionally delayed claim for priority under 35 U.S.C. 119, 120, 121, or 365(a) (§§ 1.55 and 1.78) or for filing a request for the restoration of the right of priority under § 1.452.....\$1,370.00.

■ 3. Section 1.57 is amended by revising paragraph (a)(2) to read as follows:

§ 1.57 Incorporation by reference.

(a) * * *

(2) Any amendment to an international application pursuant to this paragraph shall be effective only as to the United States, and shall have no effect on the international filing date of the application. In addition, no request under this section to add the inadvertently omitted portion of the specification or drawings in an international application designating the United States will be acted upon by the Office prior to the entry and commencement of the national stage (§ 1.491) or the filing of an application under 35 U.S.C. 111(a) which claims benefit of the international application. Any omitted portion of the international application which applicant desires to be effective as to all designated States, subject to PCT Rule 20.8(b), must be submitted in accordance with PCT Rule 20.

* * * * *

■ 4. Section 1.437 is revised to read as follows:

§ 1.437 The drawings.

(a) Drawings are required when they are necessary for the understanding of the invention (PCT Art. 7).

(b) The physical requirements for drawings are set forth in PCT Rule 11 and shall be adhered to.

■ 5. Section 1.445 is amended by revising paragraphs (a)(2) and (a)(3) to read as follows:

§ 1.445 International application filing, processing and search fees.

(a) * * *

(2) A search fee (see 35 U.S.C. 361(d) and PCT Rule 16).....\$1,800.00.

(3) A supplemental search fee when required, per additional invention.....\$1,800.00.

* * * * *

■ 6. Section 1.452 is added to read as follows:

§ 1.452 Restoration of right of priority.

(a) If the international application has an international filing date which is later than the expiration of the priority period as defined by PCT Rule 2.4 but within two months from the expiration of the priority period, the right of priority in the international application may be restored upon request if the delay in filing the international application within the priority period was unintentional.

(b) A request to restore the right of priority in an international application under paragraph (a) of this section must be filed not later than two months from the expiration of the priority period and must include:

(1) A notice under PCT Rule 26bis.1(a) adding the priority claim, if the priority claim in respect of the earlier application is not contained in the international application;

(2) The fee set forth in § 1.17(t); and

(3) A statement that the delay in filing the international application within the priority period was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

(c) If the applicant makes a request for early publication under PCT Article 21(2)(b), any requirement under paragraph (b) of this section filed after the technical preparations for international publication have been completed by the International Bureau shall be considered as not having been submitted in time.

(d) Restoration of a right of priority to a prior application by the United States Receiving Office under this section, or by any other Receiving Office under the provisions of PCT Rule 26bis.3, will not entitle applicants to a right of priority in any application which has entered the national stage under 35 U.S.C. 371, or in any application filed under 35 U.S.C. 111(a) which claims benefit under 35 U.S.C. 120 and 365(c) to an international application in which the right to priority has been restored.

■ 7. Section 1.465 is amended by revising paragraph (b) to read as follows:

§ 1.465 Timing of application processing based on the priority date.

* * * * *

(b) When a claimed priority date is corrected under PCT Rule 26bis.1(a), or a priority claim is added under PCT Rule 26bis.1(a), withdrawn under PCT Rule 90bis.3, or considered not to have been made under PCT Rule 26bis.2, the priority date for the purposes of computing any non-expired time limits will be the filing date of the earliest remaining priority claim under PCT Article 8 of the international application, or if none, the international filing date.

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■ 8. Section 1.497 is amended by revising paragraph (f)(1) to read as follows:

§ 1.497 Oath or declaration under 35 U.S.C. 371(c)(4).

* * * * *

(f) * * *

(1) There was a change in the international filing date pursuant to PCT Rule 20.5(c) after the declaration was executed; or

* * * * *

Dated: August 31, 2007.

Jon W. Dudas,

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

[FR Doc. E7-17711 Filed 9-7-07; 8:45 am]

BILLING CODE 3510-16-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2007-0497; A-1-FRL-8463-6]

Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Revised Carbon Monoxide Maintenance Plan for Nashua

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of New Hampshire. This SIP submittal contains revisions to the carbon monoxide (CO) maintenance plan for Nashua, New Hampshire. Specifically, New Hampshire has revised the contingency plan portion of the original maintenance plan. The intended effect of this action is to approve this revision to the Nashua CO maintenance plan. This action is being taken in accordance with the Clean Air Act.

DATES: This direct final rule will be effective November 9, 2007, unless EPA receives adverse comments by October 10, 2007. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R01-OAR-2007-0497 by one of the following methods:

1. *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.

2. *E-mail*: arnold.anne@epa.gov.

3. *Fax*: (617) 918-0047.

4. *Mail*: "Docket Identification Number EPA-R01-OAR-2007-0497," Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (mail code CAQ), Boston, MA 02114-2023.

5. *Hand Delivery or Courier*. Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA

New England Regional Office, One Congress Street, 11th floor, (CAQ), Boston, MA 02114-2023. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R01-OAR-2007-0497. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through www.regulations.gov, or e-mail, information that you consider to be CBI or otherwise protected. The www.regulations.gov Web site 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 electronic docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA. EPA requests that if at all possible, you contact the