

(2) Vessels operating exclusively within the Marine Inspection and Captain of the Port Zone;

(3) Vessels on a single voyage which depart from and return to the same port or place within the RNA;

(4) U.S. flagged public vessels; and

(5) Primary towing vessels engaged in towing tank barges carrying petroleum oil in bulk as cargo and issuing the security calls required under 33 CFR 165.100(d)(2).

(c) *Effective dates.* This section is effective from December 10, 2001 until June 15, 2002.

(d) *Regulations.* (1) Speed restrictions in vicinity of Naval Submarine Base New London and Lower Thames River. Vessels of 300 gross tons or more may not proceed at a speed over eight knots in the Thames River from New London Harbor channel buoys 7 and 8 (Light List numbers 21875 and 21880 respectively) north through the upper limit of the Naval Submarine Base New London Restricted Area, as specified in 33 CFR 334.75(a). All vessels less than 300 gross tons are exempt from this rule. This speed restriction does not apply to public vessels as defined in 33 U.S.C. 1321(a)(4). The U.S. Navy and other Federal, State and municipal agencies may assist the U.S. Coast Guard in the enforcement of this rule.

(2) All inbound vessels operating within the RNA must be inspected to the satisfaction of the United States Coast Guard and must obtain authorization from the Captain of the Port before crossing the line three nautical miles from the territorial sea baseline.

(3) Vessels awaiting inspection or Captain of the Port authorization to enter within the three nautical mile line will be directed to anchor in a specific location within the Regulated Navigation Area.

(4) Vessels over 1,600 gross tons operating in the RNA within the line extending seaward three nautical miles from the territorial sea baseline must receive authorization from the Captain of the Port prior to any vessel movements.

3. Add temporary § 165.T01-154 to read as follows:

**§ 165.T01-154 Safety and Security Zones: Long Island Sound Marine Inspection Zone and Captain of the Port Zone.**

(a) *Safety and security zones.* The following are established as safety and security zones:

(1) *Safety and Security Zone A:* The waters of Long Island Sound south, east and west of the Millstone Power Plant within a seven hundred (700) yard radius of the stack at Millstone, Lat.

41°18'34" North, Long. 72°9'57" West (NAD 83).

(2) *Safety and Security Zone B.* U. S. Coast Guard vessels: All waters within a 100-yard radius of any anchored U. S. Coast Guard vessel.

(b) *Effective date.* This section is effective from December 10, 2001 until June 15, 2002.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 and 165.33 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U. S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: December 10, 2001.

G. N. Naccara,

Rear Admiral, U.S. Coast Guard, District Commander.

[FR Doc. 02-160 Filed 1-3-02; 8:45 am]

BILLING CODE 4910-15-P

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

#### 37 CFR Part 1

[Docket No. 011108271-1271-01]

RIN 0651-AB44

#### Revision of the Time Limit for National Stage Commencement in the United States for Patent Cooperation Treaty Applications

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

**ACTION:** Final rule.

**SUMMARY:** The United States Patent and Trademark Office (Office) is revising the rules of practice relating to applications filed under the Patent Cooperation Treaty (PCT). This rule modifies the Office's rules of practice to comply with an amendment to the PCT. The changes in this rule specifically involve revising the rules of practice consistent with the change to the PCT to have a single time limit for national stage commencement for applications filed under the PCT, regardless of whether the applicant filed a Demand for an international preliminary examination.

**DATES:** *Effective Date:* April 1, 2002.

*Applicability Date:* The changes in this final rule apply to any international (PCT) application in which the twenty-

month period from the priority date expires on or after April 1, 2002, and in which the applicant has not yet entered the national stage as defined in 37 CFR 1.491(b) by April 1, 2002.

#### FOR FURTHER INFORMATION CONTACT:

Charles A. Pearson, Director, Office of PCT Legal Administration, by telephone at (703) 306-4145, or Boris Milef, Legal Examiner, Office of PCT Legal Administration, by telephone at (703) 308-3659, or by mail addressed to: Box PCT—Patents, Commissioner for Patents, Washington, D.C. 20231, or by facsimile to (703) 308-6459, marked to the attention of Boris Milef.

**SUPPLEMENTARY INFORMATION:** During a September-October 2001 meeting of the Governing Bodies of the World Intellectual Property Organization (WIPO), the PCT Assembly adopted an amendment to the PCT Article 22. Specifically, PCT Article 22 was amended to change its time limit for entering the national stage of twenty months from the priority date of the PCT application to a time limit of thirty months from the priority date of the PCT application. See PCT Article 47 (allows the time limits fixed in PCT Chapters I and II to be modified by a decision of the Contracting States through the PCT Assembly, subject to certain conditions). This amendment to PCT Article 22 takes effect on April 1, 2002.

With this amendment to PCT Article 22, the time limit under PCT Article 22 and the time limit under PCT Article 39 will be the same: thirty months from the priority date of the PCT application. Thus, the PCT will provide a single time period for national stage commencement for PCT applications, regardless of whether the applicant filed a Demand for an international preliminary examination. Therefore, applicants will no longer be required to file a Demand for an international preliminary examination under PCT Article 31 (and pay the international preliminary examination fees under 37 CFR 1.482) in order to delay commencement of the national stage until thirty months from the priority date. An applicant's decision whether to file a Demand under PCT Article 31 may be based upon whether the applicant wants an international preliminary examination report, and not upon whether the applicant wants to delay commencement of the national stage until thirty months from the priority date.

### Discussion of Specific Rules

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

*Section 1.8:* Section 1.8(a)(2)(i)(F) is amended to eliminate its reference to § 1.494 (which is removed and reserved).

*Section 1.14:* Section 1.14(d)(4) is amended to eliminate its reference to § 1.494 (which is removed and reserved).

*Section 1.25:* Section 1.25(b) is amended to eliminate its reference to § 1.494 (which is removed and reserved). Section 1.25 is also amended to place the sentence “[a]n authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee” at the end of the paragraph because that provision is applicable to all of the charges provided for in § 1.25(b).

*Section 1.41:* Section 1.41(a)(4) is amended to state that the inventorship of an international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, and to indicate that the inventorship set forth in the international application includes any change effected under PCT Rule 92*bis*. Section 1.41(a)(4) is also amended to refer to § 1.497(d) and (f) for filing an oath or declaration naming an inventive entity different from the inventive entity named in the international application, or if a change to the inventive entity has been effected under PCT Rule 92*bis* subsequent to the execution of any declaration filed under PCT Rule 4.17(iv).

*Section 1.48:* Section 1.48(f)(1) is amended to change “enter the national stage under 35 U.S.C. 371 and § 1.494 or § 1.495” to “enter the national stage under 35 U.S.C. 371” (§ 1.494 is removed and reserved).

*Section 1.103:* Section 1.103(d)(1) is amended to eliminate its reference to § 1.494 (which is removed and reserved).

*Section 1.417:* Section 1.417 is amended to eliminate its reference to § 1.494 (which is removed and reserved).

*Section 1.480:* Section 1.480 is amended to remove paragraph (c) and redesignate paragraph (d) as paragraph (c). Former § 1.480(c) is now unnecessary because the provisions of § 1.495 apply regardless of whether a Demand is made prior to the expiration of the nineteenth month from the priority date.

*Section 1.491:* Section 1.491 is amended to define both commencement of the national stage and entry into the national stage. Because these two events (commencement of the national stage and entry into the national stage) may not take place at the same time, the Office is amending § 1.491 to clarify when each of these two events takes place. Section 1.491(a) incorporates the statutory language contained in 35 U.S.C. 371(b), thus providing that “[s]ubject to 35 U.S.C. 371(f), the national stage shall commence with the expiration of the applicable time limit under PCT Article 22(1) or (2), or under PCT Article 39(1)(a).” However, in view of the amendment to PCT Article 22, the time limit under PCT Article 22(1) or (2) is now the same as the time limit under PCT Article 39(1)(a): thirty months from the priority date of the PCT application.

Section 1.491(b) contains the provisions of former § 1.491 amended to eliminate its reference to § 1.494 (which is removed and reserved), and provides that an international application enters the national stage when the applicant has filed the documents and fees required by 35 U.S.C. 371(c) within the period set in § 1.495.

The Office previously published a temporary rule that amends § 1.491 to define both commencement of the national stage and entry into the national stage in the manner discussed above. See *Timing of National Stage Commencement in the United States for Patent Cooperation Treaty Applications*, 66 FR 45775 (Aug. 30, 2001), 1250 *Off. Gaz. Pat. Office* 147 (Sept. 25, 2001). The Office also published a notice proposing the above change to § 1.491 for public comment. See *Requirements for Claiming the Benefit of Prior-Filed Applications Under Eighteen-Month Publication of Patent Applications*, 66 FR 46409 (Sept. 5, 2001), 1251 *Off. Gaz. Pat. Office* 16 (Oct. 2, 2001). The Office received no comment on the proposed change to § 1.491.

*Section 1.492:* Sections 1.492(e) and (f) are amended to eliminate their reference to § 1.494 (which is removed and reserved).

*Section 1.494:* Section 1.494 is removed and reserved. Since the time period for commencement of the national stage in the United States of America will not depend upon whether the applicant has filed a Demand under PCT Article 31, it will no longer be necessary to provide separately in § 1.494 and § 1.495 for the time period for filing the documents and fees required by 35 U.S.C. 371(c) for: (1) Applications in which a Demand under Article 31 has not been filed within nineteen months from the priority date

(§ 1.494); and (2) applications in which a Demand under Article 31 has been filed within nineteen months from the priority date (§ 1.495).

*Section 1.495:* Section 1.495 is amended to be applicable regardless of whether the applicant has filed a Demand under Article 31 within nineteen months from the priority date. Section 1.495 is also amended to eliminate unassociated text in § 1.495(b) and § 1.495(c).

*Section 1.497:* Sections 1.497(a) and 1.497(c) are amended to eliminate their reference to § 1.494 (which is removed and reserved).

*Section 1.497(d)* is amended to clarify that if a change to the inventive entity has been effected under PCT Rule 92*bis* subsequent to the execution of any oath or declaration that was filed in the application under PCT Rule 4.17(iv) or § 1.497, the requirements of § 1.497(d)(1) through (d)(4) apply only if the inventive entity changed pursuant to PCT Rule 92*bis* is different from the inventive entity identified in any previously filed oath or declaration application under PCT Rule 4.17(iv) or § 1.497. Section 1.497(d) is also amended such that a new oath or declaration is not required under § 1.497(d) unless a new oath or declaration is required by § 1.497(f). Section 1.497(f) is amended to provide that a new oath or declaration under § 1.497 is not required when a change in the inventive entity is effected under PCT Rule 92*bis* after the declaration was executed unless no declaration which sets forth and is executed by the inventive entity as so changed has been filed in the application. Therefore, if a declaration under PCT Rule 4.17(iv) naming and executed by a first inventive entity is followed by a change of inventive entity under PCT Rule 92*bis* and a new declaration under PCT Rule 4.17(iv) naming and executed by the new (second) inventive entity filed in the application, the applicant must comply with the requirements of § 1.497(d) to enter the national stage but a new oath or declaration under § 1.497 is not required because the application contains a declaration under PCT Rule 4.17(iv) setting forth the inventive entity as changed pursuant to PCT Rule 92*bis*.

### Classification

#### *Administrative Procedure Act*

The changes in this final rule relate solely to Office practices and procedures for patent applications filed under the PCT. Accordingly, this final rule involves rules of agency practice and procedure under 5 U.S.C. 553(b)(A), and may be adopted without prior