

7. For rescues into spaces that may pose significant atmospheric hazards and from which rescue entry, patient packaging and retrieval cannot be safely accomplished in a relatively short time (15–20 minutes), employers should consider using airline respirators (with escape bottles) for the rescuers and to supply rescue air to the patient. If the employer decides to use SCBA, does the prospective rescue service have an ample supply of replacement cylinders and procedures for rescuers to enter and exit (or be retrieved) well within the SCBA's air supply limits?

8. If the space has a vertical entry over 5 feet in depth, can the prospective rescue service properly perform entry rescues? Does the service have the technical knowledge and equipment to perform rope work or elevated rescue, if needed?

9. Does the rescue service have the necessary skills in medical evaluation, patient packaging and emergency response?

10. Does the rescue service have the necessary equipment to perform rescues, or must the equipment be provided by the employer or another source?

#### B. Performance Evaluation

Rescue services are required by paragraph (k)(2)(iv) of the standard to practice rescues at least once every 12 months, provided that the team or service has not successfully performed a permit space rescue within that time. As part of each practice session, the service should perform a critique of the practice rescue, or have another qualified party perform the critique, so that deficiencies in procedures, equipment, training, or number of personnel can be identified and corrected. The results of the critique, and the corrections made to respond to the deficiencies identified, should be given to the employer to enable it to determine whether the rescue service can quickly be upgraded to meet the employer's rescue needs or whether another service must be selected. The following questions will assist employers and rescue teams and services evaluate their performance.

1. Have all members of the service been trained as permit space entrants, at a minimum, including training in the potential hazards of all permit spaces, or of representative permit spaces, from which rescue may be needed? Can team members recognize the signs, symptoms, and consequences of exposure to any hazardous atmospheres that may be present in those permit spaces?

2. Is every team member provided with, and properly trained in, the use and need for PPE, such as SCBA or fall arrest equipment, which may be required to perform permit space rescues in the facility? Is every team member properly trained to perform his or her functions and make rescues, and to use any rescue equipment, such as ropes and backboards, that may be needed in a rescue attempt?

3. Are team members trained in the first aid and medical skills needed to treat victims overcome or injured by the types of hazards that may be encountered in the permit spaces at the facility?

4. Do all team members perform their functions safely and efficiently? Do rescue

service personnel focus on their own safety before considering the safety of the victim?

5. If necessary, can the rescue service properly test the atmosphere to determine if it is IDLH?

6. Can the rescue personnel identify information pertinent to the rescue from entry permits, hot work permits, and MSDSs?

7. Has the rescue service been informed of any hazards to personnel that may arise from outside the space, such as those that may be caused by future work near the space?

8. If necessary, can the rescue service properly package and retrieve victims from a permit space that has a limited size opening (less than 24 inches (60.9 cm) in diameter), limited internal space, or internal obstacles or hazards?

9. If necessary, can the rescue service safely perform an elevated (high angle) rescue?

10. Does the rescue service have a plan for each of the kinds of permit space rescue operations at the facility? Is the plan adequate for all types of rescue operations that may be needed at the facility? Teams may practice in representative spaces, or in spaces that are "worst-case" or most restrictive with respect to internal configuration, elevation, and portal size. The following characteristics of a practice space should be considered when deciding whether a space is truly representative of an actual permit space:

(1) Internal configuration.

(a) Open—there are no obstacles, barriers, or obstructions within the space. One example is a water tank.

(b) Obstructed—the permit space contains some type of obstruction that a rescuer would need to maneuver around. An example would be a baffle or mixing blade. Large equipment, such as a ladder or scaffold, brought into a space for work purposes would be considered an obstruction if the positioning or size of the equipment would make rescue more difficult.

(2) Elevation.

(a) Elevated—a permit space where the entrance portal or opening is above grade by 4 feet or more. This type of space usually requires knowledge of high angle rescue procedures because of the difficulty in packaging and transporting a patient to the ground from the portal.

(b) Non-elevated—a permit space with the entrance portal located less than 4 feet above grade. This type of space will allow the rescue team to transport an injured employee normally.

(3) Portal size.

(a) Restricted—A portal of 24 inches or less in the least dimension. Portals of this size are too small to allow a rescuer to simply enter the space while using SCBA. The portal size is also too small to allow normal spinal immobilization of an injured employee.

(b) Unrestricted—A portal of greater than 24 inches in the least dimension. These portals allow relatively free movement into and out of the permit space.

(4) Space access.

(a) Horizontal—The portal is located on the side of the permit space. Use of retrieval lines could be difficult.

(b) Vertical—The portal is located on the top of the permit space, so that rescuers must

climb down, or the bottom of the permit space, so that rescuers must climb up to enter the space. Vertical portals may require knowledge of rope techniques, or special patient packaging to safely retrieve a downed entrant.

[FR Doc. 98–31946 Filed 11–30–98; 8:45 am]

BILLING CODE 4510–26–P

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

#### 37 CFR Part 1

[Docket No.: 980511124–8284–02]

#### Revision of Patent Cooperation Treaty Application Procedure

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

**ACTION:** Final rule.

**SUMMARY:** The Patent and Trademark Office (Office or USPTO) is confirming the amendment of its rules of practice relating to applications filed under the Patent Cooperation Treaty (PCT). This amendment of the rules of practice conformed the United States rules of practice with the corresponding changes to the Regulations under the PCT which became effective July 1, 1998.

**DATES:** This final rule is effective on December 1, 1998. The interim rule, published at 63 FR 29614 (June 1, 1998), was effective on July 1, 1998.

**FOR FURTHER INFORMATION CONTACT:** Richard Lazarus, PCT Legal Office Supervisor, by telephone at (703) 308–6451; or by mail addressed to: Box PCT, Assistant Commissioner for Patents, Washington, DC 20231; or by facsimile to (703) 308–6459, marked to the attention of Richard Lazarus.

**SUPPLEMENTARY INFORMATION:** During a September–October 1997 meeting of the Governing Bodies of the World Intellectual Property Organization (WIPO), the PCT Assembly adopted amendments to the PCT Regulations. These amendments to the PCT Regulations took effect on July 1, 1998, and the amended PCT Regulations were published in the *Official Gazette* at 1210 *Off. Gaz. Pat. Office* 29 (May 12, 1998). An interim rule conforming the United States rules of practice to the corresponding changes in the PCT Regulations was published in the *Federal Register* at 63 FR 29614 (June 1, 1998), and in the *Official Gazette* at 1211 *Off. Gaz. Pat. Office* 76 (June 23, 1998).

The Office has received no comments on the changes to 37 CFR contained in the interim rule. Accordingly, the changes to 37 CFR contained in the

above-mentioned interim rule are adopted as final in this final rule.

Applicants are again notified that PCT Rules 20.4(c) and 26.3ter (a) and (c) as amended are not compatible with the national law of the United States, and thus the USPTO has taken a reservation on adherence to these Rules through its notification to the Director General of WIPO to such effect. See PCT Rules 20.4(d) and 26.3ter (b) and (d). Similarly, the USPTO continues not to adhere to the unchanged provisions of PCT Rule 49.5(cbis) and (k) with respect to the translation requirements for United States national stage applications (35 U.S.C. 371(c)(2)). See PCT Rule 49.5(l).

The above-noted changes to the PCT Regulations include the addition of new PCT Rules 89bis and 89ter (directed to electronic filing and processing of international applications) which will enter into force at the same time as the modifications to the Administrative Instructions implementing those PCT Rules. Implementation of PCT Rules 89bis and 89ter is optional with each national office. In the event that the USPTO decides to implement PCT Rules 89bis and 89ter, the USPTO will provide notice to that effect in the **Federal Register** and *Official Gazette*.

#### Discussion of Specific Rules

A section-by-section discussion of the changes to title 37 of the Code of Federal Regulations adopted as final in this final rule is set forth in the above-mentioned interim rule at 63 FR 29614-17, and 1211 *Off. Gaz. Pat. Office* 77-78.

#### Other Considerations

The United States rules of practice contained in title 37, CFR, must conform to the PCT Articles and the Regulations annexed to the PCT. See PCT Article 27(1). This final rule adopts as final changes required to conform the United States rules of practice for international applications to the amendments to the PCT Regulations which became effective on July 1, 1998. Thus, this final rule is covered by the foreign affairs function exception of 5 U.S.C. 553(a)(1), and may be adopted without prior notice and opportunity for public comment. See *International Brotherhood of Teamsters v. Pena*, 17 F.3d 1478, 1486 (D.C. Cir. 1994).

As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable. This final rule does not contain policies with federalism implications sufficient to

warrant preparation of a Federalism Assessment under Executive Order 12612 (October 26, 1987). This final rule has been determined not to be significant for purposes of Executive Order 12866 (September 30, 1993).

This final rule contains 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 principal impact of this final rule is to adopt as final changes that conform the United States rules of practice relating to applications filed under the PCT to the corresponding amendments made to the Regulations under the PCT.

The general purpose of the PCT is to provide a single set of standards and procedures for the filing of patent applications on the same invention in any of the over ninety PCT member countries. The PCT provides a common filing procedure and a standardized application format for international applications.

The collection of information in this final rule has been reviewed and approved by OMB under control number 0651-0021. The public reporting burden for this collection of information is estimated to average 0.95 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the information. Send comments regarding this burden estimate or any other aspect of the data requirement, including suggestions for reducing the burden to Richard Lazarus at the address specified above and to the Office of Information and Regulatory Affairs, OMB, 725 17th Street, N.W., Washington, D.C., 20503 (Attn: PTO Desk Officer).

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, the interim rule amending 37 CFR Part 1 which was published at 63 FR 29614-29620 on June 1, 1998, is adopted as a final rule without change.

Dated: November 23, 1998.

**Q. Todd Dickinson,**

*Deputy Assistant Secretary of Commerce and Deputy Commissioner of Patents and Trademarks.*

[FR Doc. 98-31952 Filed 11-30-98; 8:45 am]

BILLING CODE 3510-16-P

## LIBRARY OF CONGRESS

### Copyright Office

#### 37 CFR Part 201

#### Copyright Rules and Regulations

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Technical amendment; correction.

**SUMMARY:** The Copyright Office is making one amendment to its rule at 37 CFR 201.22(e) and one correction to its interim rule at 37 CFR 201.5 to update these portions of the copyright regulations. The amendment concerns service of advance notice of potential infringement of certain works, the fixation of which is made simultaneously with their transmission, and the correction concerns applications for supplementary registration.

**EFFECTIVE DATE:** December 1, 1998.

#### FOR FURTHER INFORMATION CONTACT:

David O. Carson, General Counsel, or Marilyn J. Kretsinger, Assistant General Counsel, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024. Telephone: (202) 707-8380. Fax: (202) 707-8366.

**SUPPLEMENTARY INFORMATION:** The Copyright Office is amending its regulation concerning service of Advance Notice of Potential Infringement of certain works pursuant to 17 U.S.C. 411(b), which was amended by section 6 of the Copyright Technical Amendments Act, Pub. L. 105-80 (1997). Section 411(b) provides that a copyright owner of a work consisting of sounds, images, or both, the fixation of which is made simultaneously with its transmission, may institute an action for copyright infringement if the copyright owner has served a notice on the infringer identifying the work and the specific time and source of its first transmission, and declaring an intention to secure copyright in the work. The copyright owner must also register the work within three months after its first transmission. Prior to the 1997 amendment, section 411(b) required that the notice be served on the infringer "not less than ten or more than thirty days before such fixation." The 1977