

- 645-401-120 ... How Civil Penalty Assessments Are Made.
- 645-401-410 Assessment of Separate and 430. Violations for Each Day.
- 645-401-721, 723.100, and 742. Procedures for Informal Assessment Conferences.
- 645-401-810 Request for Formal Hearings and 830.
- 645-401-910 ... Final Civil Penalty Assessment and Payment of Penalty.
- 645-402-120 ... Information on Individual Civil Penalties.
- 645-402-420 Procedures for Assessment of Individual Civil Penalties and 422.

[FR Doc. 95-10777 Filed 5-1-95; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF EDUCATION

34 CFR Part 690

RIN 1840-AB73

Federal Pell Grant Program; Presidential Access Scholarship Program

AGENCY: Department of Education.

ACTION: Final regulations; correction.

SUMMARY: This document corrects an error in the final regulations published in the *Federal Register* on November 1, 1994 for the Federal Pell Grant Program (59 FR 54718). These regulations implement statutory changes in the Federal Pell Grant Program authorized by title IV of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1992, and the Higher Education Technical Amendments of 1993.

FOR FURTHER INFORMATION CONTACT: Greg Gerrans, Office of Student Financial Assistance Programs, Office of Postsecondary Education, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3045, Regional Office Building 3, Washington, D.C. 20202-5447. Telephone (202) 708-4607. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

Dated: April 24, 1995.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

§ 690.12 [Corrected]

1. The following correction is made in FR Doc. 94-26832, published on November 1, 1994 (59 FR 54718):

On page 54732, column 1, § 690.12(b)(2) "Mailing the paper

application form to the Secretary." is corrected to read "Sending an approved application form to the Secretary."

[FR Doc. 95-10665 Filed 5-1-95; 8:45 am]

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DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1 and 10

[Docket No. 950403086-5086-01]

RIN 0651-AA72

Revisions of Patent Cooperation Treaty Provisions

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent and Trademark Office (Office) is amending the rules of practice relating to applications filed under the Patent Cooperation Treaty (PCT) in accordance with revised regulations under the PCT. The changes will result in a procedure whereby international applications improperly filed with the United States Receiving Office (RO/US) will, for a fee, be forwarded for processing to the International Bureau as Receiving Office.

EFFECTIVE DATE: June 1, 1995.

FOR FURTHER INFORMATION CONTACT: Charles Pearson at (703) 308-6515.

SUPPLEMENTARY INFORMATION: In a Notice of Proposed Rulemaking published in the *Federal Register* at 59 FR 33707 (June 30, 1994) and in the Patent and Trademark Office Official Gazette at 1164 Off. Gaz. Pat. Office 77 (July 26, 1994), the Office proposed to amend several rules of practice in patent cases. Recent changes to the PCT Regulations include the addition of a new section (PCT Rule 19.4) which provides for transmittal of an international application to the International Bureau, acting in its capacity as Receiving Office, in certain instances. Under the regulations currently in effect, at least one applicant is required, on filing the international application in the United States, to be a resident or national of the United States.

The practice under the revised PCT Regulations permits an international application filed with the United States Receiving Office to be forwarded to the International Bureau for processing in its capacity as a Receiving Office if the international application does not name an applicant who is indicated as being a U.S. resident or national, but names an

applicant who is indicated as a resident or national of another PCT Contracting State or if the indication of residence or nationality of the applicant is missing. The Receiving Office of the International Bureau will consider the international application to be received as of the date accorded by the United States Receiving Office. This practice will avoid the loss of a filing date in those instances where the United States Receiving Office is not competent to act, but where the international application is filed by an applicant who is a national or resident of a PCT Contracting State. Where questions arise regarding residence and nationality, e.g., where residence and nationality are not clearly set forth, the application will be forwarded to the International Bureau as Receiving Office. If all applicants are indicated to be residents and nationals of non-PCT Contracting States, PCT Rule 19.4 does not apply and the application is denied an international filing date.

Discussion of Specific Rules

Section 1.412(c)(6) is added to reflect that the United States Receiving Office, where it is not a competent Receiving Office under PCT Rule 19.1 or 19.2, could transmit the international application to the International Bureau for processing in its capacity as a Receiving Office.

Section 1.421(a) is amended to clarify that applications filed by applicants who are not residents or nationals of the United States, but who are residents or nationals of a PCT Contracting State or who indicate no residence or nationality, will, upon timely payment of the proper fee, be forwarded to the International Bureau for processing in its capacity as a Receiving Office.

Section 1.445(a)(5) is added to establish a fee equivalent to the transmittal fee in paragraph (a)(1) of this section for transmittal of an international application to the International Bureau for processing in its capacity as a Receiving Office.

Section 10.9 is amended to add a new provision consistent with PCT Rule 90.1, clarifying that an attorney or agent having the right to practice before the International Bureau when acting as Receiving Office may represent the applicant before the U.S. International Searching Authority or the U.S. International Preliminary Examining Authority. An individual who has the right to practice before the International Bureau when acting as Receiving Office, and who is not registered under § 10.6, may not prosecute patent applications in the national stage in the Office.

Response to Comments on the Rules

The comments received in response to the notice of proposed rulemaking have been given careful consideration. The comments and responses are discussed below.

Comment: One comment was received which approved of the proposed rule changes but noted other aspects of the U.S. National Phase filing procedures that could be changed to make the PCT more user-friendly.

Response: The Office is interested in making the PCT more user friendly. Amendments to §§ 1.494 and 1.495, which were effective on May 1, 1993, removed many of the differences in practice involving the filing of a regular U.S. application under 35 U.S.C. 111 and the entry of the national stage under 35 U.S.C. 371. These regulations now provide for a notice of missing requirements, similar to a notice under § 1.53(d), where a defective oath or declaration or a defective translation is filed.

Comment: Regarding § 1.412(c), one comment suggested that the proposed rule should be made consistent with PCT Rule 19.4(b) which provides for the transmittal of international applications to the International Bureau as Receiving Office "unless prescriptions concerning national security prevent the international application from being so transmitted" by incorporating such language into the proposed rule.

Response: The Office has adopted the suggestion and modified the rule by incorporating the suggested language from PCT Rule 19.4(b) in the regulation.

Comment: One comment regarding § 1.445(a)(5) mentioned that the word "competent" should be deleted because it is not "necessary and may be inaccurate" when no applicant in an international application is a "resident or national of a PCT Contracting State."

Response: The Office has adopted the suggestion and modified the rule by deleting "competent" from § 1.445(a)(5). The second occurrence of the word "competent" has also been deleted from 37 CFR 1.412(c)(6), for the same reasons.

Comment: Regarding § 10.9(c), there were a few comments which focus on the wording. Specifically, one comment noted that the word "appointed" is confusing because it is not clear if it includes "an officer or employee of a legal-entity patent applicant" in cases where the United States of America is not designated. An example was provided which noted "if the only applicant was XYZ Company, would the president of the Company be authorized to prosecute the application before the USPTO as an International Searching

and Preliminary Examining Authority? In countries permitting assignee filing it is normal for any authorized officer or employee of the company to be able to represent the company without regard as to whether he is authorized to practice as an agent or attorney before the patent office."

Response: The proposed regulation is sufficiently clear on this point. If a person has the authority to represent an applicant, either a legal entity applicant or a real person, before the International Bureau as Receiving Office, then that person has the right to represent that applicant before the United States International Searching Authority and the United States International Preliminary Examining Authority.

Comment: Another comment about Rule 10.9(c) is that the word "only" is overlimiting and should be deleted from the Rule because it excludes Article 19 amendments filed before the International Bureau. It was suggested that the Rule be changed as follows: —* * * prosecute an International Application before the United States Patent and Trademark Office acting as an International Searching or Preliminary Examining Authority, * * *

Response: The Office will not adopt the suggestion. The word "only" in the Rule signifies that such persons may not prosecute an international application in the national stage before the USPTO. The rule is not meant to control who may practice before the International Bureau. Such a person would clearly be allowed to file Article 19 amendments with the International Bureau by virtue of PCT Rule 90.1(a).

Comment: A final comment made about Rule 10.9(c) is that the last phrase added is "too broad" because it does not recite who is entitled to act before the International Bureau. It was suggested that the rule should be changed to include the phrase—* * * for a national Office of a Contracting State of which an applicant is a resident or national—at the end of the rule.

Response: The Office has adopted the suggestion to the extent that an explicit reference to PCT Rule 83.1^{bis} has been inserted in the regulation. Since PCT Rule 83.1^{bis} clearly sets forth who may practice before the International Bureau, it is not necessary to repeat that information here. Thus, the regulation clearly sets forth who may practice before the United States International Searching and Preliminary Examining Authorities.

Other Considerations

The rule changes are in conformity with the requirements of the Regulatory

Flexibility Act, 5 U.S.C. 601 *et seq.*, Executive Order 12612, and the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* These rule changes have been determined to be not significant for the purposes of Executive Order 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration, that the rule changes will not have a significant economic impact on a substantial number of small entities (Regulatory Flexibility Act, 5 U.S.C. 605(b)), because the rules would affect only a small number of international applications and would provide more streamlined and simplified procedures for filing and prosecuting international applications under the PCT.

The Office has also determined that these rule changes have no federalism implications affecting the relationship between the National government and the States as outlined in Executive Order 12612.

These rule changes will not impose any additional burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The paperwork burden imposed by adherence to the PCT is currently approved by the Office of Management and Budget under control number 0651-0021.

List of Subjects

37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of information, Inventions and patents, Reporting and recordkeeping requirements, Small businesses.

37 CFR Part 10

Administrative practice and procedure, Inventions and patents, Lawyers, Reporting and recordkeeping requirements, Trademarks.

For the reasons set forth in the preamble, 37 CFR parts 1 and 10 are amended to read 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. 6 unless otherwise noted.

2. Section 1.412 is amended by adding new paragraph (c)(6) to read as follows:

§ 1.412 The United States Receiving Office.

* * * * *

(c) * * *
 (6) Reviewing and, where the United States Receiving Office is not the competent Receiving Office under § 1.421(a) and PCT Rule 19.1 or 19.2, transmitting the international application to the International Bureau for processing in its capacity as a Receiving Office unless prescriptions concerning national security prevent the application from being so transmitted (PCT Rule 19.4).

3. Section 1.421 is amended by revising paragraph (a) to read as follows:

§ 1.421 Applicant for international application.

(a) Only residents or nationals of the United States of America may file international applications in the United States Receiving Office. If an international application does not include an applicant who is indicated as being a resident or national of the United States of America, and at least one applicant:

- (1) Has indicated a residence or nationality in a PCT Contracting State, or
- (2) Has no residence or nationality indicated; applicant will be so notified and, if the international application includes a fee amount equivalent to that required by § 1.445(a)(5), the international application will be forwarded for processing to the International Bureau acting as a Receiving Office. (See also § 1.412(c)(6)).

* * * * *

4. Section 1.445 is amended by adding new paragraph (a)(5) to read as follows:

§ 1.445 International application filing, processing and search fees.

(a) * * *
 (5) A fee equivalent to the transmittal fee in paragraph (a)(1) of this section for transmittal of an international application to the International Bureau for processing in its capacity as a Receiving Office (PCT Rule 19.4).

* * * * *

5. The authority citation for 37 CFR part 10 would continue to read as follows:

Authority: 5 U.S.C. 500; 15 U.S.C. 1123; 35 U.S.C. 6, 31, 32, 41.

6. Section 10.9 is amended by revising paragraph (c) to read as follows:

§ 10.9 Limited recognition in patent cases.

* * * * *

(c) An individual not registered under § 10.6 may, if appointed by applicant to do so, prosecute an international application only before the U.S. International Searching Authority and

the U.S. International Preliminary Examining Authority, provided: The individual has the right to practice before the national office with which the international application is filed (PCT Art. 49, Rule 90 and § 1.455) or before the International Bureau when acting as Receiving Office pursuant to PCT Rules 83.1^{bis} and 90.1.

Dated: April 25, 1995.
Lawrence J. Goffney, Jr.,
Acting Assistant Secretary of Commerce and Acting Commissioner of Patents and Trademarks.
 [FR Doc. 95-10743 Filed 5-1-95; 8:45 am]
 BILLING CODE 3510-16-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 42-1-6916a; FRL-5186-7]

Approval and Promulgation of Implementation Plans; Arizona State Implementation Plan Revision, Pinal County Air Quality Control District; and Section 112(l) Approval of Pinal County Air Quality Control District Program for the Issuance of Permits Containing Voluntarily Accepted Federally Enforceable Conditions

AGENCY: Environmental Protection Agency (EPA).
ACTION: Direct final rule.

SUMMARY: The EPA is taking direct final action on revisions to the Arizona State Implementation Plan. The revisions concern synthetic minor permit rules from the Pinal County Air Quality Control District (Pinal or District). The intended effect of approving these synthetic minor regulations is to allow facilities to voluntarily accept federally enforceable limits on their potential emissions. This approval action will incorporate these rules into the federally approved SIP. In order to extend the federal enforceability of conditions in permits to hazardous air pollutants (HAP), EPA is also approving Pinal's synthetic minor regulations pursuant to section 112 of the Act.

DATES: This final rule is effective on July 3, 1995 unless adverse or critical comments are received by June 1, 1995. If the effective date is delayed, a timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the rules and EPA's Technical Support Document for the synthetic minor program are available for public inspection at the following location:

Operating Permits Section (A-5-2), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.
 Air Docket (6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.
 Copies of the submitted rules are also available for inspection at the following location:
 Pinal County Air Quality Control District, 457 South Central Avenue, Florence, Arizona 85232.
 Arizona Department of Environmental Quality, 3033 North Central Avenue, Phoenix, Arizona 85012.

FOR FURTHER INFORMATION CONTACT: Regina Spindler, Operating Permits Section (A-5-2), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1251.

SUPPLEMENTARY INFORMATION: Applicability

The rules being approved into the Arizona SIP include: Pinal County Air Quality Control District (Pinal) Code of Regulations, Chapter 1, Article 3, section 1-3-140, Definitions, subsections 5, 15, 21, 32, 33, 35, 50, 51, 58, 59, 103, and 123; Chapter 3, Article 1, section 3-1-081, Permit conditions, subsection (A)(8)(a); Chapter 3, Article 1, section 3-1-084, Voluntarily Accepted Federally Enforceable Emissions Limitations; Applicability; Reopening; Effective Date; and Chapter 3, Article 1, section 3-1-107, Public Notice and Participation. These rules were submitted by the Arizona Department of Environmental Quality to EPA on August 15, 1994 for approval into the State Implementation Plan. Pinal submitted these provisions for approval under section 112(l) on October 25, 1994.

Background

On June 28, 1989 (54 FR 27274), EPA published criteria for approving and incorporating into the SIP regulatory programs for the issuance of federally enforceable state operating permits (FESOP). Permits issued pursuant to an operating permit program approved into the SIP as meeting these criteria may be considered federally enforceable. On November 3, 1993, EPA announced in a guidance document entitled, "Approaches to Creating Federally Enforceable Emissions Limits," signed by John S. Seitz, Director, Office of Air Quality Planning and Standards, that this mechanism could be extended to create federally enforceable limits for