

# Proposed Rules

Federal Register

Vol. 72, No. 32

Friday, February 16, 2007

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### 18 CFR 2, 33, 365, and 366

[Docket No. AD07-2-000]

#### Technical Conference on Public Utility Holding Company Act of 1935 and Enactment of the Public Utility Holding Company Act of 2005; Notice of Technical Conference

February 9, 2007.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Notice of Technical Conference.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) is holding a technical conference on March 8, 2007, to discuss certain issues raised in rulemakings issued in Commission Docket Nos. RM05-32-000 and RM05-34-000. This is the second conference being held as a follow-up to Commission Order Nos. 667 and No. 669. The Commission is now soliciting nominations for speakers at the technical conference.

**DATES:** Nominations must be made on or before: February 15, 2007.

**FOR FURTHER INFORMATION CONTACT:** Sarah McKinley, Office of External Affairs, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502-8004, [sarah.mckinley@ferc.gov](mailto:sarah.mckinley@ferc.gov).

**SUPPLEMENTARY INFORMATION:** This conference addresses certain issues raised in rulemakings issued in Docket No. RM05-32-000 (70 FR 75592, December 20, 2005) and Docket No. RM05-34-000 (71 FR 1348, January 6, 2006).

#### Technical Conference on Public Utility Holding Company Act of 2005 and Federal Power Act Section 203 Issues

February 9, 2007.

Take notice that on March 8, 2007, a technical conference will be held at the Federal Energy Regulatory Commission

to discuss certain issues raised in rulemakings issued in Docket Nos. RM05-32 and RM05-34. This is the second technical conference<sup>1</sup> being held as a follow-up to the Commission's Orders No. 667 and No. 669.<sup>2</sup> The technical conference will be held from approximately 9 a.m. to 4 p.m. (EST) at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in the Commission Meeting Room. Commissioners are expected to attend. All interested persons are invited to attend, and registration is not required.

The subject of this technical conference is whether the Commission's current merger policy should be revised, in particular whether the Commission's Appendix A analysis is sufficient to identify market power concerns in today's electric industry market environment. A further notice with a detailed agenda will be issued in advance of the conference.

The Commission is now soliciting nominations for speakers at the technical conference. Persons wishing to nominate themselves as speakers should do so using this electronic link: <https://www.ferc.gov/whats-new/registration/puhca-03-08-speaker-form.asp>. Such nominations must be made before the close of business, Thursday, February 15, 2007, so that an agenda for the technical conference can be drafted and published.

Transcripts of the conference will be immediately available from Ace Reporting Company (202-347-3700 or 1-800-336-6646) for a fee. They will be available for the public on the Commission's eLibrary system seven calendar days after FERC receives the transcript.

A free webcast of this event will be available through <http://www.ferc.gov>.

<sup>1</sup> The first technical conference was held on December 7, 2006, and primarily focused on matters pertaining to cross subsidization; cash management programs and money pools; and exemptions, waivers and blanket authorizations set forth in Order Nos. 667 and 669.

<sup>2</sup> Repeal of the Public Utility Holding Company Act of 1935 and Enactment of the Public Utility Holding Company Act of 2005, Order No. 667, FERC Stats. & Regs. ¶ 31,197 (2005), order on reh'g, Order No. 667-A, FERC Stats. & Regs. ¶ 31,213, order on reh'g, Order No. 667-B, FERC Stats. & Regs. ¶ 31,224 (2006), reh'g pending; Transactions Subject to FPA Section 203, Order No. 669, FERC Stats. & Regs. ¶ 31,200 (2006), order on reh'g, Order No. 669-A, FERC Stats. & Regs. ¶ 31,214 (2006), order on reh'g, Order No. 669-B, FERC Stats. & Regs. ¶ 31,225 (2006).

Anyone with Internet access who desires to view this event can do so by navigating to [www.ferc.gov](http://www.ferc.gov)'s Calendar of Events and locating this event in the Calendar. The event will contain a link to its webcast. The Capitol Connection provides technical support for the free webcasts. It also offers access to this event via television in the DC area and via phone bridge for a fee. If you have any questions, visit <http://www.CapitolConnection.org> or contact Danelle Perkowski or David Reininger at 703-993-3100.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to [accessibility@ferc.gov](mailto:accessibility@ferc.gov) or call toll free 1-866-208-3372 (voice) or 202-208-1659 (TTY), or send a FAX to 202-208-2106 with the required accommodations.

For more information about this conference, please contact: Sarah McKinley, Office of External Affairs, Federal Energy Regulatory Commission, (202) 502-8004, [sarah.mckinley@ferc.gov](mailto:sarah.mckinley@ferc.gov).

Magalie R. Salas,

Secretary.

[FR Doc. E7-2707 Filed 2-15-07; 8:45 am]

BILLING CODE 6717-01-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:** Notice of proposed rule making.

**SUMMARY:** The United States Patent and Trademark Office (USPTO or Office) is proposing to amend 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 will take effect on April 1, 2007. These amendments will 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 will 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 will clarify the circumstances and procedures under which the correction of an obvious mistake may be made in an international application. Finally, the Office is proposing to revise the search fee for international applications.

**Comment Deadline Date:** Written comments must be received on or before March 19, 2007. No public hearing will be held.

**ADDRESSES:** Comments should be sent by electronic mail message via the Internet addressed to: [AC9.comments@uspto.gov](mailto:AC9.comments@uspto.gov). Comments may also be submitted by mail addressed to: Mail Stop Comments-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA, 22313-1450, or by facsimile to (571) 273-0459, marked to the attention of Mr. Richard Cole. Although comments may be submitted by mail or facsimile, the Office prefers to receive comments via the Internet.

The comments will be available for public inspection at the Office of the Commissioner for Patents, located in Madison East, Tenth Floor, 600 Dulany Street, Alexandria, Virginia, and will be available via the Office Internet Web site (address: <http://www.uspto.gov>). Because comments will be made available for public inspection, information that is not desired to be made public, such as an address or phone number, should not be included in the comments.

**FOR FURTHER INFORMATION CONTACT:** Richard R. Cole, 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 (PLT Article 5(6)) and substitution of the description and drawings upon filing with a reference to a previously filed application, these provisions could not be implemented to the extent provided in the PLT absent amendment of the PCT Articles. However, similar provisions have been made in the PCT by amending PCT Rules 4 and 20 to allow for the inclusion of an incorporation by reference statement on the PCT Request form. Applicants may then 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. 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.

#### Discussion of Specific Rules

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

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

**Section 1.57:** Section 1.57(a)(2) is proposed to be 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 proposed to be amended for clarity and to remove inaccurate language currently

present in the paragraph. Section 1.437(b) is proposed to be 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 proposed to be redesignated as § 1.437(b).

*Section 1.445:* Section 1.445(a) is proposed to be 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. The Activity-Based-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 proposing to revise § 1.445(a) to provide for a search fee (and supplemental search fee) of \$1,800.00. In addition, the Office is proposing to revise § 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 currently provides 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 current 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 proposed to be added to provide for restoration of the right of priority in international applications (subject to the enumerated conditions and limitations).

Section 1.452(a) provides that applicants may request restoration of the right of priority if the international application was filed within fourteen months from the priority date 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 entire delay 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 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 to priority has been restored.

*Section 1.465:* Section 1.465(b) is proposed to be 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 proposed to be deleted as unnecessary, as the obligation of the United States Receiving Office to proceed under PCT Rule 26*bis*.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.

#### 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 proposed in this notice (if adopted) will not have a significant economic impact on a substantial number of small entities. See 5 U.S.C. 605(b). The significant changes proposed in this notice 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 1881.

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 notice proposes to adjust 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 proposed adjustment to the search fee and supplemental search fee is to make 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. In addition, filing an international application under the PCT is an optional route for an applicant seeking foreign patent protection, and an applicant who does not choose to seek foreign patent protection by 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.

Pursuant to the authority in 35 U.S.C. 376(b), this notice proposes to eliminate 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 adjusting 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). As discussed previously, this proposed adjustment to the search fee is to make these fees more accurately reflect the cost of conducting a search and preparing a Chapter I written opinion in an international application. An applicant 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. These alternatives are available at a lower overall cost in patent fees (even with the proposed adjustment in the search fee) than the cost in patent fees of filing a nonprovisional application under 35 U.S.C. 111(a) before filing an international application. This is the case even taking into account the current reduced search fee for there being a corresponding prior nonprovisional application under 35 U.S.C. 111(a).

Pursuant to the authority in 35 U.S.C. 376(b), this notice proposes to establish 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 45,000 international applications filed in the United States Receiving Office each year).

For the reasons stated previously, the changes proposed in this notice (if adopted) 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, Deputy 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 record keeping requirements, Small businesses.

For the reasons set forth in the preamble, 37 CFR Part 1 is proposed to be 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 twelve months from the priority date but within the period of fourteen months from the priority date, the right of priority in the international application may be restored upon request if the delay in filing the international application within the period of twelve months from the priority date was unintentional.

(b) A request to restore the right of priority in an international application under paragraph (a) must be filed not later than fourteen months from the priority date 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 entire delay 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.

\* \* \* \* \*

Dated: February 12, 2007.

**Jon W. Dudas,**

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

[FR Doc. E7-2761 Filed 2-15-07; 8:45 am]

**BILLING CODE 3510-16-P**

**POSTAL SERVICE**

**39 CFR Part 111**

**Revised Standards for Mailing Adult Fowl**

**AGENCY:** Postal Service.

**ACTION:** Proposed rule.

**SUMMARY:** The Postal Service proposes new requirements for containers used for mailing adult chickens. Currently, we require all mailable adult fowl other than chickens to be mailed in containers approved by the manager of Mailing Standards. With this proposal, we intend to require adult chickens to be mailed in approved containers also.

**DATES:** We must receive your comments on or before March 19, 2007.

**ADDRESSES:** Mail or deliver written comments to the Manager, Mailing Standards, U.S. Postal Service, 475 L'Enfant Plaza SW., Room 3436, Washington, DC 20260-3436. You may inspect and photocopy all written comments at Postal Service Headquarters Library, 475 L'Enfant Plaza SW., 11th Floor N, Washington, DC between 9 a.m. and 4 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Bert Olsen, 202-268-7276.

**SUPPLEMENTARY INFORMATION:** To promote the safety of Postal Service employees, customers, and all mailed adult fowl, we propose to revise our requirements for containers used for mailing adult chickens. Current mailing standards permit adult chickens to be mailed in containers that pass basic

package performance tests. By contrast, other adult fowl (such as turkeys, guinea fowl, doves, pigeons, pheasants, partridges, and quail) must be mailed in containers approved by the manager of Mailing Standards. The container standards for other adult fowl are more stringent than the standards for adult chickens. Because there is no compelling reason to treat adult chickens differently from other adult fowl, the revised standards will require adult chickens to be mailed in the same containers approved by Mailing Standards for use with other adult fowl.

Vendors who wish to submit a container for USPS approval can contact the office of Mailing Standards for a list of container criteria. Additionally, the term "biologically secure" has been replaced by the word "secure" to eliminate any implication that such packaging will completely prevent the spread of disease during handling.

Although we are exempt from the notice and comment requirements of the Administrative Procedure Act [5 U.S.C. of 553(b), (c)] regarding proposed rulemaking by 39 U.S.C. 410(a), we invite public comment on the following proposed revisions to *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

**List of Subjects in 39 CFR Part 111**

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR part 111 is proposed to be amended as follows:

**PART 111—[AMENDED]**

1. The authority citation for 39 CFR Part 111 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001-3011, 3201-3219, 3403-3406, 3621, 3626, 5001.

2. Revise the following sections of Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM), as follows:

**600 Basic Standards for All Mailing Services**

**601 Mailability**

\* \* \* \* \*

**9.0 Perishables**

\* \* \* \* \*

**9.3 Live Animals**

\* \* \* \* \*

**9.3.4 Adult Fowl**

[Revise 9.3.4 as follows:]  
Disease-free adult fowl are mailable domestically when shipped under