

1. Redesignating paragraph (b) as paragraph (c).

2. Adding a new paragraph (b).
The addition reads as follows:

§ 1.501(c)(5)-1 Labor, agricultural, and horticultural organizations.

* * * * *

(b)(1) *General rule.* An organization is not an organization described in section 501(c)(5) if the principal activity of the organization is to receive, hold, invest, disburse or otherwise manage funds associated with savings or investment plans or programs, including pension or other retirement savings plans or programs.

(2) *Exception.* Paragraph (b)(1) of this section shall not apply to an organization which—

(i) Is established and maintained by another labor organization described in section 501(c)(5) (determined without regard to this paragraph (b)(2));

(ii) Is not directly or indirectly established or maintained in whole or in part by one or more—

(A) Employers;

(B) Governments or agencies or instrumentalities thereof; or

(C) Government controlled entities;

(iii) Is funded by membership dues from members of the labor organization described in this paragraph (b)(2) and earnings thereon; and

(iv) Has not at any time after September 2, 1974 (the date of enactment of the Employee Retirement Income Security Act of 1974, Pub. L. 93-406, 88 Stat. 829) provided for, permitted or accepted employer contributions.

(3) *Example.* The principles of this paragraph (b) are illustrated by the following example:

Example. Trust A is organized in accordance with a collective bargaining agreement between labor union K and multiple employers. Trust A forms part of a plan that is established and maintained pursuant to the agreement and which covers employees of the signatory employers who are members of K. Representatives of both the employers and K serve as trustees. A receives contributions from the employers who are subject to the agreement. Retirement benefits paid to K's members as specified in the agreement are funded exclusively by the employers' contributions and accumulated earnings. A also provides information to

union members about their retirement benefits and assists them with administrative tasks associated with the benefits. Most of A's activities are devoted to these functions. From time to time, A also participates in the renegotiation of the collective bargaining agreement. A's principal activity is to receive, hold, invest, disburse, or otherwise manage funds associated with a retirement savings plan. In addition, A does not satisfy all the requirements of the exception described in paragraph (b)(2) of this section. (For example, A accepts contributions from employers.) Therefore, A is not a labor organization described in section 501(c)(5).

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Michael P. Dolan,

Acting Commissioner of Internal Revenue.

Approved: July 8, 1997.

Donald C. Lubick,

Acting Assistant Secretary of the Treasury.

[FR Doc. 97-19814 Filed 7-28-97; 8:45 am]

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DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy has determined that USS PEARL HARBOR (LSD 52) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval vessel. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: June 26, 1997.

FOR FURTHER INFORMATION CONTACT:

Captain R. R. Pixa, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, Virginia,

22332-2400, Telephone Number: (703) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS PEARL HARBOR (LSD 52) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS: Annex I, section 3(a), pertaining to the horizontal distance between the forward and after masthead lights, without interfering with its special function as a naval vessel. The Deputy Assistant Judge Advocate General (Admiralty) of the Navy has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—[AMENDED]

1. The authority citation for 32 CFR Part 706 continues to read as follows:

Authority: 33 U.S.C. 1605.

2. Table Five of § 706.2 is amended by adding, in numerical order, the following entry for the USS PEARL HARBOR:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After mast-head light less than 1/2 ship's length aft of forward masthead light. Annex I, sec. 3(a)	Percentage horizontal separation attained
USS PEARL HARBOR	LSD 52	*	*	X	63.9
		*	*		*

Dated: June 26, 1997.

R.R. Pixa,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate, General (Admiralty).

[FR Doc. 97-19831 Filed 7-28-97; 8:45 am]

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DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1 and 2

[Docket No. 970410086-7174-02]

RIN 0651-AA92

Revision of Patent and Trademark Fees for Fiscal Year 1998

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent and Trademark Office (PTO) is amending the rules of practice in patent and trademark cases to adjust certain patent fee and trademark service fee amounts to reflect fluctuations in the Consumer Price Index (CPI) and to recover costs of operation.

EFFECTIVE DATE: October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Matthew Lee by telephone at (703) 305-8051, fax at (703) 305-8007, or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Office of Finance, Crystal Park 1, Suite 802, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: This rule change is designed to adjust PTO fees in accordance with the applicable provisions of title 35, United States Code; section 31 of the Trademark (Lanham) Act of 1946 (15 U.S.C. 1113); and section 10101 of the Omnibus Budget Reconciliation Act of 1990 (as amended by section 8001 of Public Law 103-66), all as amended by the Patent and Trademark Office Authorization Act of 1991 (Pub. L. 102-204).

When the "Revision of Patent and Trademark Fees for Fiscal Year 1998" was published as a proposed rule, the PTO assumed that the fee revisions would not become effective until after the "1996 Changes to Patent Practice and Procedure" (hereinafter "Miscellaneous Changes"). See 61 FR 49819 (Sept. 23, 1996) (proposed Miscellaneous Changes rule). The changes proposed in the fee revision notice of proposed rulemaking have been modified to take into account that the fee revision rule will become effective before the Miscellaneous Changes rulemaking.

Background

Statutory Provisions

Patent fees are authorized by 35 U.S.C. 41 and 35 U.S.C. 376. A fifty percent reduction in the fees paid under 35 U.S.C. 41 (a) and (b) by independent inventors, small business concerns, and nonprofit organizations who meet prescribed definitions is required by 35 U.S.C. 41(h).

Subsection 41(f) of title 35, United States Code, provides that fees established under 35 U.S.C. 41 (a) and (b) may be adjusted on October 1, 1992, and every year thereafter, to reflect fluctuations in the Consumer Price Index (CPI) over the previous twelve months.

Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (amended by section 8001 of Public Law 103-66) provides that there shall be a surcharge on all fees established under 35 U.S.C. 41(a) and (b) to collect \$119 million in fiscal year 1998.

Subsection 41(d) of title 35, United States Code, authorizes the Commissioner to establish fees for all other processing, services, or materials related to patents to recover the average cost of providing these services or materials, except for the fees for recording a document affecting title, for

each photocopy, and for each black and white copy of a patent.

Section 376 of title 35, United States Code, authorizes the Commissioner to set fees for patent applications filed under the Patent Cooperation Treaty (PCT).

Subsection 41(g) of title 35, United States Code, provides that new fee amounts established by the Commissioner under section 41 may take effect thirty days after notice in the **Federal Register** and the Official Gazette of the Patent and Trademark Office.

Section 31 of the Trademark (Lanham) Act of 1946, as amended (15 U.S.C. 1113), authorizes the Commissioner to establish fees for the filing and processing of an application for the registration of a trademark or other mark, and for all other services and materials relating to trademarks and other marks.

Section 31(a) of the Trademark (Lanham) Act of 1946 (15 U.S.C. 1113(a)), as amended, allows trademark fees to be adjusted once each year to reflect, in the aggregate, any fluctuations during the preceding twelve months in the CPI.

Section 31 also allows new trademark fee amounts to take effect thirty days after notice in the **Federal Register** and the Official Gazette of the Patent and Trademark Office.

Recovery Level Determinations

This rule adjusts patent fee and trademark service fee amounts for a planned recovery of \$763,391,000 in fiscal year 1998, as proposed in the Administration's budget request to the Congress.

The patent statutory fees established by 35 U.S.C. 41 (a) and (b) will be adjusted on October 1, 1997, to reflect any fluctuations occurring during the previous twelve months in the Consumer Price Index for all urban consumers (CPI-U). In calculating these