

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email Mr. Steven Fischer, Bridge Administrator, Thirteenth Coast Guard District; telephone 206-220-7282, email [d13-pf-d13bridges@uscg.mil](mailto:d13-pf-d13bridges@uscg.mil). If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:** SDOT has requested a temporary deviation from the operating schedule for the Ballard Bridge, mile 1.1, crossing the Lake Washington Ship Canal at Seattle, WA. The requested deviation is to accommodate evening detoured commuter traffic during road construction. To facilitate timely efficient movement of highway traffic, the currently published drawbridge closure hours will be extended by one hour. The extended closure hours will be from 4 p.m. to 7 p.m. daily Monday through Friday, excluding federal holidays, from November 19, 2014 until January 31, 2015.

The Ballard Bridge, mile 1.1, provides a vertical clearance of 29 feet in the closed position; clearances are referenced to the mean water elevation of Lake Washington. The current operating schedule for the bridge is set out in 33 CFR 117.1051. The normal operating schedule for the Ballard Bridge states that the bridge need not open from 7 a.m. to 9 a.m. and from 4 p.m. to 6 p.m. Monday through Friday, except federal holidays but Columbus Day for vessels less than 1000 tons, unless the vessel has in tow a vessel of 1000 gross tons or more. The normal operating schedule for the bridge also requires one hour advance notification for bridge openings between 11 p.m. and 7 a.m. daily. Waterway usage on the Lake Washington Ship Canal ranges from commercial tug and barge to small pleasure craft. Vessels able to pass through the bridge in the closed positions may do so at anytime. The bridge will not be able to open for emergencies and there is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: October 31, 2014.

**Steven M. Fischer,**

*Bridge Administrator, Thirteenth Coast Guard District.*

[FR Doc. 2014-27008 Filed 11-13-14; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2014-0969]

#### **Drawbridge Operation Regulation; Long Island, New York Inland Waterway From East Rockaway Inlet to Shinnecock Canal, Nassau, NY**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of deviation from drawbridge regulation.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the operation of the Meadowbrook State Parkway Bridge, across Sloop Channel, mile 12.8, at Nassau, New York. This deviation is necessary to replace electrical components at the bridge. This deviation will allow the bridge to remain in the closed position for three partial days to facilitate scheduled bridge maintenance, the replacement of the electrical umbilical cords.

**DATES:** This deviation is effective between 8 a.m. and 11 a.m. from November 17, 2014 through November 21, 2014.

**ADDRESSES:** The docket for this deviation, [USCG-2014-0969] is available at <http://www.regulations.gov>. Type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12-140, on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC, 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email Ms. Judy Leung-Yee, Project Officer, First Coast Guard District, [judy.k.leung-yee@uscg.mil](mailto:judy.k.leung-yee@uscg.mil), or (212) 514-4330. If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

**SUPPLEMENTARY INFORMATION:** The Meadowbrook State Parkway Bridge has

a vertical clearance of 22 feet at mean high water, and 25 feet at mean low water in the closed position. The existing drawbridge operating regulations are found at 33 CFR 117.799(h). Sloop Channel has commercial and recreational vessel traffic of various sizes.

The bridge owner, New York State Department of Transportation, requested a three partial day bridge closure to facilitate the replacement of the electrical umbilical cords at the bridge.

Under this temporary deviation, the Meadowbrook State Parkway Bridge may remain in the closed position between 8 a.m. and 11 a.m. from November 17, 2014, through November 19, 2014. In the event of inclement weather, the rain dates will be from November 20, 2014 through November 21, 2014.

Vessels that can pass under the bridge in the closed position may do so at all times. There are no alternate routes. The bridge can be opened in the event of an emergency situation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: October 31, 2014.

**C.J. Bisignano,**

*Supervisory Bridge Management Specialist, First Coast Guard District.*

[FR Doc. 2014-27011 Filed 11-13-14; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

#### 37 CFR Part 1

[Docket No.: PTO-P-2014-0001]

**RIN 0651-AC92**

#### **Changes to Continued Prosecution Application Practice**

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

**ACTION:** Final rule.

**SUMMARY:** The Leahy-Smith America Invents Act (AIA) revised and streamlined the requirements for the inventor's oath or declaration. In implementing the AIA inventor's oath or declaration provisions, the United States Patent and Trademark Office (Office) provided that an applicant may postpone the filing of the inventor's oath or declaration until allowance if the applicant provides an application

data sheet indicating the name, residence, and mailing address of each inventor. The rules pertaining to continued prosecution applications (which are applicable only to design applications) require that the prior nonprovisional application of a continued prosecution application be complete, which requires that the prior nonprovisional application contain the inventor's oath or declaration. The Office published an interim rule on March 5, 2014, to revise the rules pertaining to continued prosecution applications to permit the filing of a continued prosecution application even if the prior nonprovisional application does not contain the inventor's oath or declaration so long as the continued prosecution application is filed on or after September 16, 2012, and the prior nonprovisional application contains an application data sheet indicating the name, residence, and mailing address of each inventor (continued prosecution application interim rule). The Office received no comments from the public in response to the continued prosecution application interim rule published on March 5, 2014. This final rule adopts as final the amendments to the rules of practice originally set forth in the continued prosecution application interim rule.

**DATES: Effective Date:** This final rule is effective on November 14, 2014. The continued prosecution application interim rule published on March 5, 2014 at 79 FR 12384 was effective on March 5, 2014.

**FOR FURTHER INFORMATION CONTACT:**

Eugenia A. Jones, Senior Legal Advisor, Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy, at (571) 272-7727.

**SUPPLEMENTARY INFORMATION:**

**Executive Summary: Purpose:** The previously published continued prosecution application interim rule permits the filing of a continued prosecution application even if the prior nonprovisional application does not contain the inventor's oath or declaration. *See Changes to Continued Prosecution Application Practice*, 79 FR 12384 (Mar. 5, 2014). The change in the continued prosecution application interim rule avoids the need for applicants to file the inventor's oath or declaration in an application in order to file a continued prosecution application of that application. This final rule adopts as final the amendments to the rules of practice originally set forth in the continued prosecution application interim rule.

**Summary of Major Provisions:** The previously published continued prosecution application interim rule provides that the prior nonprovisional application of a continued prosecution application that was filed on or after September 16, 2012, is not required to contain the inventor's oath or declaration so long as the prior nonprovisional application contains an application data sheet indicating the name, residence, and mailing address of each inventor. As discussed previously, this final rule adopts as final the amendments to the rules of practice originally set forth in the continued prosecution application interim rule.

**Costs and Benefits:** This rulemaking is not economically significant under Executive Order 12866 (Sept. 30, 1993).

**Background:** The Office revised the rules of practice pertaining to the inventor's oath or declaration during implementation of the AIA inventor's oath or declaration provisions to permit an applicant to postpone the filing of the inventor's oath or declaration until payment of the issue fee if the applicant provides an application data sheet indicating the name, residence, and mailing address of each inventor. *See Changes To Implement the Inventor's Oath or Declaration Provisions of the Leahy-Smith America Invents Act*, 77 FR 48776, 48779-80 (Aug. 14, 2012), and *Changes To Implement the Patent Law Treaty*, 78 FR 62367, 62376 (Oct. 21, 2013). The rules of practice pertaining to continued prosecution applications (which are applicable only to design applications) formerly required that the prior nonprovisional application of a continued prosecution application be a design application that is complete as defined by 37 CFR 1.51(b). *See* 37 CFR 1.53(d)(1)(ii) (2013) (required that the prior nonprovisional application of a continued prosecution application be a design application that is complete as defined by 37 CFR 1.51(b)). 37 CFR 1.51(b) in turn requires that an application contain the inventor's oath or declaration to be complete. *See* 37 CFR 1.51(b)(2). The continued prosecution application interim rule amends 37 CFR 1.53(d)(1)(ii) to permit the filing of a continued prosecution application even if the prior nonprovisional application does not contain the inventor's oath or declaration so long as the continued prosecution application is filed on or after September 16, 2012, and the prior nonprovisional application contains an application data sheet indicating the name, residence, and mailing address of each inventor. This change avoids the need for applicants to file the inventor's oath or declaration in an application in

order to file a continued prosecution application of that application. This final rule adopts as final the amendments to the rules of practice originally set forth in the continued prosecution application interim rule.

**Discussion of Specific Rules**

The continued prosecution application interim rule published on March 5, 2014, amended § 1.53(d)(1)(ii) to change "[t]he prior nonprovisional application is a design application that is complete as defined by § 1.51(b)" to "[t]he prior nonprovisional application is a design application that is complete as defined by § 1.51(b), except for the inventor's oath or declaration if the application is filed on or after September 16, 2012, and the prior nonprovisional application contains an application data sheet meeting the conditions specified in § 1.53(f)(3)(i)."

**Comments:** The Office received no comments in response to the continued prosecution application interim rule.

**Rulemaking Considerations**

**A. Administrative Procedure Act:** This final rule simply adopts as final changes in the continued prosecution application interim rule, which pertain to the procedures that apply to the filing of a continued prosecution application and do not change the substantive criteria of patentability. Therefore, the changes in this rulemaking involve rules of agency practice and procedure, and/or interpretive rules. *See JEM Broad. Co. v. FCC*, 22 F.3d 320, 326 (D.C. Cir. 1994) ("[T]he critical feature of the procedural exception [in 5 U.S.C. 553(b)(A)] is that it covers agency actions that do not themselves alter the rights or interests of parties, although [they] may alter the manner in which the parties present themselves or their viewpoints to the agency") (quoting *Batterton v. Marshall*, 648 F.2d 694, 707 (D.C. Cir. 1980)); *see also Bachow Commc'ns Inc. v. FCC*, 237 F.3d 683, 690 (D.C. Cir. 2001) (rules governing an application process are procedural under the Administrative Procedure Act); *Inova Alexandria Hosp. v. Shalala*, 244 F.3d 342, 350 (4th Cir. 2001) (rules for handling appeals were procedural where they did not change the substantive standard for reviewing claims).

In addition, the Office, pursuant to authority at 5 U.S.C. 553(b)(3)(B), found good cause to adopt the changes in the continued prosecution application interim rule without prior notice and an opportunity for public comment, as such procedures would have been contrary to the public interest. Delay in the promulgation of the changes in the continued prosecution application

interim rule to provide notice and comment procedures would have caused harm to those applicants who file a continued prosecution application where the prior nonprovisional application does not contain the inventor's oath or declaration. Immediate implementation of the changes in the continued prosecution application interim rule was in the public interest because: (1) The public did not need time to conform its conduct as the changes in the continued prosecution application interim rule merely eased the requirements for filing a continued prosecution application; and (2) those applicants who were ineligible to file a continued prosecution application because the prior nonprovisional application does not contain the inventor's oath or declaration benefitted from the changes in the continued prosecution application interim rule. *See Nat'l Customs Brokers & Forwarders Ass'n v. U.S.*, 59 F.3d 1219, 1223–24 (Fed. Cir. 1995).

Accordingly, prior notice and opportunity for public comment was not required pursuant to 5 U.S.C. 553(b) or (c), 35 U.S.C. 2(b)(2)(B), or any other law. *See Cooper Techs. Co. v. Dudas*, 536 F.3d 1330, 1336–37 (Fed. Cir. 2008) (stating that 5 U.S.C. 553, and thus 35 U.S.C. 2(b)(2)(B), does not require notice and comment rulemaking for “interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice”) (quoting 5 U.S.C. 553(b)(A)). In addition, pursuant to authority at 5 U.S.C. 553(d)(1), the changes in the continued prosecution application interim rule were made immediately effective because they relieved restrictions in the requirements for filing a continued prosecution application.

B. Regulatory Flexibility Act: As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 or any other law, neither a regulatory flexibility analysis nor a certification under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is required. *See* 5 U.S.C. 603.

C. Executive Order 12866 (Regulatory Planning and Review): This rulemaking has been determined to be not significant for purposes of Executive Order 12866 (Sept. 30, 1993).

D. Executive Order 13563 (Improving Regulation and Regulatory Review): The Office has complied with Executive Order 13563. Specifically, the Office has, to the extent feasible and applicable: (1) Made a reasoned determination that the benefits justify the costs of the rule; (2) tailored the rule

to impose the least burden on society consistent with obtaining the regulatory objectives; (3) selected a regulatory approach that maximizes net benefits; (4) specified performance objectives; (5) identified and assessed available alternatives; (6) involved the public in an open exchange of information and perspectives among experts in relevant disciplines, affected stakeholders in the private sector and the public as a whole, and provided on-line access to the rulemaking docket; (7) attempted to promote coordination, simplification, and harmonization across government agencies and identified goals designed to promote innovation; (8) considered approaches that reduce burdens and maintain flexibility and freedom of choice for the public; and (9) ensured the objectivity of scientific and technological information and processes.

E. Executive Order 13132 (Federalism): This rulemaking does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

F. Executive Order 13175 (Tribal Consultation): This rulemaking will not: (1) Have substantial direct effects on one or more Indian tribes; (2) impose substantial direct compliance costs on Indian tribal governments; or (3) preempt tribal law. Therefore, a tribal summary impact statement is not required under Executive Order 13175 (Nov. 6, 2000).

G. Executive Order 13211 (Energy Effects): This rulemaking is not a significant energy action under Executive Order 13211 because this rulemaking is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required under Executive Order 13211 (May 18, 2001).

H. Executive Order 12988 (Civil Justice Reform): This rulemaking meets applicable standards to minimize litigation, eliminate ambiguity, and reduce burden as set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Feb. 5, 1996).

I. Executive Order 13045 (Protection of Children): This rulemaking does not concern an environmental risk to health or safety that may disproportionately affect children under Executive Order 13045 (Apr. 21, 1997).

J. Executive Order 12630 (Taking of Private Property): This rulemaking will not affect a taking of private property or otherwise have taking implications under Executive Order 12630 (Mar. 15, 1988).

K. Congressional Review Act: Under the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), prior to issuing any final rule, the United States Patent and Trademark Office will submit a report containing the rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the Government Accountability Office. The changes in this final rule are not expected to result in an annual effect on the economy of 100 million dollars or more, a major increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, this final rule is not a “major rule” as defined in 5 U.S.C. 804(2).

L. Unfunded Mandates Reform Act of 1995: The changes set forth in this notice do not involve a Federal intergovernmental mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, of 100 million dollars (as adjusted) or more in any one year, or a Federal private sector mandate that will result in the expenditure by the private sector of 100 million dollars (as adjusted) or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995. *See* 2 U.S.C. 1501 *et seq.*

M. National Environmental Policy Act: This rulemaking will not have any effect on the quality of the environment and is thus categorically excluded from review under the National Environmental Policy Act of 1969. *See* 42 U.S.C. 4321 *et seq.*

N. National Technology Transfer and Advancement Act: The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) are not applicable because this rulemaking does not contain provisions which involve the use of technical standards.

O. Paperwork Reduction Act: The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) requires that the Office consider the impact of paperwork and other information collection burdens imposed on the public. This final rule 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. 3501–3549). This rulemaking

does not impose any additional collection requirements under the Paperwork Reduction Act which are subject to further review by OMB.

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 79 FR 12384–12386 on March 5, 2014, is adopted as a final rule without change.

Dated: November 6, 2014.

**Michelle K. Lee,**

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

[FR Doc. 2014–27032 Filed 11–13–14; 8:45 am]

BILLING CODE 3510–16–P

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

#### 37 CFR Part 1

[Docket No.: PTO–P–2014–0003]

RIN 0651–AC93

#### Changes To Permit Delayed Submission of Certain Requirements for Prioritized Examination

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

**ACTION:** Final rule.

**SUMMARY:** The Leahy-Smith America Invents Act includes provisions for prioritized examination of patent applications (also referred to as “Track I”), which have been implemented by the United States Patent and Trademark Office (Office) in previous rulemakings. The Office published an interim rule on March 5, 2014 (prioritized examination interim rule), to simplify the Track I prioritized examination practice to reduce the number of requests for prioritized examination that must be dismissed. In order to enable rapid processing and examination of those applications, the previous rulemakings provided that a request for Track I

prioritized examination requires, upon filing of the application, an inventor’s oath or declaration and all required fees, and that the application contain no more than four independent claims, thirty total claims, and no multiple dependent claims. If a request for Track I prioritized examination failed to meet these requirements on filing, then the request was dismissed. After operating under the previous rulemakings for some time, the Office determined that the time period for meeting the identified requirements could be expanded and still enable the Office to timely examine the patent application. Hence, on March 5, 2014, the Office published the prioritized examination interim rule to expand the time period for meeting the identified requirements. The Office received no comments from the public in response. This final rule adopts as final the amendments to the rules of practice originally set forth in the prioritized examination interim rule.

**DATES: Effective Date:** This final rule is effective on November 14, 2014. The prioritized examination interim rule published on March 5, 2014 at 79 FR 12386 was effective on March 5, 2014.

**Applicability Date:** The changes to 37 CFR 1.102 apply only to applications filed under 35 U.S.C. 111(a) on or after September 16, 2012, in which a first action has not been mailed.

**FOR FURTHER INFORMATION CONTACT:** John R. Cottingham, Director, Office of Petitions, at (571) 272–7079, or Michael T. Cygan, Senior Legal Advisor, Office of Patent Legal Administration, at (571) 272–7700.

#### SUPPLEMENTARY INFORMATION:

**Executive Summary: Purpose:** The prioritized examination interim rule simplified prioritized examination (“Track I”) practice to reduce the number of requests for prioritized examination that must be dismissed and to improve access to prioritized examination. This final rule adopts as final the amendments to the rules of practice originally set forth in the prioritized examination interim rule.

**Summary of Major Provisions:** The prioritized examination provisions (37 CFR 1.102(e)) formerly required that: (1) The inventor’s oath or declaration be present on filing; (2) all fees be paid upon filing; and (3) the application as filed contain no more than four independent claims, no more than thirty total claims, and no multiple dependent claims. The prioritized examination interim rule revised 37 CFR 1.102(e) to provide that: (1) The filing of an inventor’s oath or declaration may be postponed in accordance with 37 CFR 1.53(f)(3) if an application data sheet

meeting the conditions specified in 37 CFR 1.53(f)(3)(i) is present upon filing; (2) if an application contains more than four independent claims, more than thirty total claims, or any multiple dependent claim, the applicant is given a non-extendable one-month period to file an amendment to cancel any independent claims in excess of four, any total claims in excess of thirty, and any multiple dependent claim; and (3) any excess claims fees due under 37 CFR 1.16(h), (i), or (j) and any application size fee due under 37 CFR 1.16(s) is not required to be paid on filing. This final rule adopts as final the amendments to the rules of practice originally set forth in the prioritized examination interim rule.

**Costs and Benefits:** This rulemaking is not economically significant under Executive Order 12866 (Sept. 30, 1993).

**Background:** Section 11(h) of the Leahy-Smith America Invents Act provides for prioritized examination of an application. See Public Law 112–29, 125 Stat. 283, 324 (2011). Section 11(h) of the Leahy-Smith America Invents Act also provides that the Office may by regulation prescribe conditions for acceptance of a request for prioritized examination. See *id.*

The Office implemented the Leahy-Smith America Invents Act prioritized examination provision for applications upon filing, referred to as “Track I,” in a final rule published on September 23, 2011. See *Changes to Implement the Prioritized Examination Track (Track I) of the Enhanced Examination Timing Control Procedures under the Leahy-Smith America Invents Act*, 76 FR 59050 (September 23, 2011). The Office subsequently implemented prioritized examination for pending applications after the filing of a proper request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114. See *Changes to Implement the Prioritized Examination for Requests for Continued Examination*, 76 FR 78566 (December 19, 2011).

The rule implementing prioritized examination, 37 CFR 1.102(e), sets forth the requirements that must be met to permit a request for prioritized examination to be granted. These requirements were selected after public discussion with, and feedback from, patent practitioners and stakeholders. These requirements were selected in such a manner as to permit the Office to examine applications undergoing prioritized examination in a timely manner. In furtherance of timely examination, the Office required that requests for Track I prioritized examination conform to all of the requirements listed in 37 CFR