

## Regulations

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

### PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); § 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. On June 17, 2006, from 9 a.m. to 5 p.m., § 117.593 is suspended and a new § 117.T594 is added to read as follows:

#### § 117.T594 Chelsea River.

(a) All drawbridges across the Chelsea River shall open on signal; except that the P.J. McArdle Bridge, mile 0.3, need not open for the passage of vessel traffic from 9 a.m. to 5 p.m. on June 17, 2006.

(b) The opening signal for each drawbridge is two prolonged blasts followed by two short blasts and one prolonged blast. The acknowledging signal is three prolonged blasts when the draw can be opened immediately and two prolonged blasts when the draw cannot be opened or is open and must be closed.

Dated: March 21, 2006.

**David P. Pekoske,**

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. E6–4900 Filed 4–5–06; 8:45 am]

BILLING CODE 4910–15–P

## DEPARTMENT OF COMMERCE

### United States Patent and Trademark Office

#### 37 CFR Part 1

[Docket No.: PTO–P–2006–0005]

RIN 0651–AC01

### Changes to Eliminate the Disclosure Document Program

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

**ACTION:** Notice of proposed rule making.

**SUMMARY:** The United States Patent and Trademark Office (Office) implemented the Disclosure Document Program in 1969 in order to provide an alternative form of evidence of conception of an invention to, for example, a “self-addressed envelope” containing a disclosure of an invention. It appears, however, that few, if any, inventors

obtain any actual benefit from a disclosure document, and some inventors who use the Disclosure Document Program believe that they are actually filing an application for a patent. In addition, a provisional application for patent affords better benefits and protection to inventors than a disclosure document. Therefore, the Office is proposing to eliminate the Disclosure Document Program.

**Comment Deadline Date:** To be ensured of consideration, written comments must be received on or before May 8, 2006. No public hearing will be held.

**ADDRESSES:** Comments should be sent by electronic mail message over the Internet addressed to [ddp.comments@uspto.gov](mailto:ddp.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) 273–7735, marked to the attention of Catherine M. Kirik. Although comments may be submitted by mail or facsimile, the Office prefers to receive comments via the Internet. If comments are submitted by mail, the Office prefers that the comments be submitted on a DOS formatted 3½ inch disk accompanied by a paper copy.

Comments may also be sent by electronic mail message over the Internet via the Federal eRulemaking Portal. See the Federal eRulemaking Portal Web site (<http://www.regulations.gov>) for additional instructions on providing comments via the Federal eRulemaking Portal.

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:

Catherine M. Kirik, Office of the Commissioner for Patents, by telephone at (571) 272–8040, by mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450, or by facsimile to (571) 273–0170, marked to the attention of Catherine M. Kirik.

**SUPPLEMENTARY INFORMATION:** An inventor may file a disclosure document with the Office which includes a written description and drawings of his or her

invention in sufficient detail to enable a person of ordinary skill in the art to make and use the invention to establish a date of conception of an invention in the United States under 35 U.S.C. 104 prior to the application filing date. The inventor must sign the disclosure document and include a separate signed cover letter identifying the papers as a disclosure document. A disclosure document does not require either a claim in compliance with 35 U.S.C. 112, ¶2, or an inventor’s oath (or declaration) under 35 U.S.C. 115, and is not accorded a patent application filing date. A disclosure document is to be destroyed by the Office after two years unless it is referred to in a separate letter in a related provisional or nonprovisional application filed within those two years. The filing fee for a disclosure document is \$10. See 37 CFR 1.21(c).

The Office published a notice in September of 1998 seeking input from the general public on whether the Office should eliminate the Disclosure Document Program. See *Changes to Implement the Patent Business Goals*, 63 FR 53498, 53527–28 (Oct. 5, 1998), 1215 *Off. Gaz. Pat. Office* 87 (Oct. 27, 1998) (advance proposed rule). The Office received a number of comments supporting the elimination of the Disclosure Document Program, but did not receive any input from the independent inventor community and, therefore, decided to delay eliminating the Disclosure Document Program. See *Changes to Implement the Patent Business Goals*, 64 FR 53772, 53776–77 (Oct. 4, 1998), 1215 *Off. Gaz. Pat. Office* 87 (Oct. 27, 1998) (proposed rule). The Office has determined that it is now appropriate to propose elimination of the Disclosure Document Program because, *inter alia*, independent inventors have become more familiar with and are using provisional applications more often than they were in 1998, and provisional applications provide more protections for independent inventors than disclosure documents.

The Office implemented the Disclosure Document Program in 1969 in order to provide an alternative form of evidence of conception of an invention to forms such as a “self-addressed envelope” form of evidence. See *Disclosure Document Program*, 34 FR 6003 (Apr. 2, 1969), 861 *Off. Gaz. Pat. Office* 1 (May 6, 1969). Since June of 1995, however, applicants have been able to file a provisional application for patent, which provides better benefits and protection to inventors than a disclosure document. A provisional application must contain a specification

in compliance with 35 U.S.C. 112, ¶1, and drawings, if drawings are necessary to understand the invention described in the specification. A provisional application must name the inventors and be accompanied by a separate cover sheet identifying the papers as a provisional application. The basic filing fee for a provisional application by a small entity is \$100.00. *See* 37 CFR 1.16(d). A provisional application does not require a claim under 35 U.S.C. 112, ¶2, or an inventor's oath (or declaration) under 35 U.S.C. 115. While a nonprovisional application must be filed within twelve months of the filing date of a provisional application in order for the inventor to claim the benefit of the provisional application under 35 U.S.C. 119(e), the file of a provisional application is retained by the Office for at least twenty years, or longer if it is referenced in a patent or patent application publication. With respect to an invention claimed in a nonprovisional application that is entitled under 35 U.S.C. 119(e) to the benefit of a provisional application, the provisional application is considered a constructive reduction to practice of an invention as of the filing date accorded the application, if it describes the invention in sufficient detail to enable a person of ordinary skill in the art to make and use the invention and discloses the best mode known by the inventor for carrying out the invention. Thus, the disclosure requirements for a provisional application are similar to the disclosure requirements for a disclosure document, and a provisional application provides users with a filing date without starting the patent term period. Therefore, almost any papers filed as a proper disclosure document may also be filed as a provisional application.

A provisional application is, however, more valuable to an inventor than a disclosure document. A provisional application, just like a nonprovisional application, establishes a constructive reduction to practice date with respect to an invention claimed in a nonprovisional application that is entitled under 35 U.S.C. 119(e) to the benefit of the provisional application and disclosed in the provisional application in the manner required by 35 U.S.C. 112, ¶1, and can be used under the Paris Convention to establish a priority date for foreign filing. A disclosure document, however, may only be used as evidence of a date of conception of an invention under 35 U.S.C. 104. A disclosure document is not a patent application and the filing of a disclosure document does not

establish a constructive reduction to practice date for an invention described therein. Thus, to use a disclosure document to establish prior invention under 35 U.S.C. 102(g) or under 37 CFR 1.131, an inventor may rely on the disclosure document to demonstrate that he or she conceived of the invention first, but the inventor may also be required to demonstrate that he or she was reasonably diligent from a date just prior to: (1) The date of conception by the other party in an interference proceeding; or (2) effective date of a reference being used by the Office to reject one or more claims of an application until the inventor's actual or constructive reduction to practice. With respect to an invention claimed in a nonprovisional application that is entitled under 35 U.S.C. 119(e) to the benefit of a provisional application and disclosed in the provisional application in the manner required by 35 U.S.C. 112, ¶1, however, the provisional application may be used to establish a constructive reduction to practice date as of the filing date of the provisional application.

Under 35 U.S.C. 102(b), any public use or sale of an invention in the U.S. or description of an invention in a patent or a printed publication anywhere in the world more than one year prior to the filing of a patent application on that invention will bar the grant of a patent. In addition, many foreign countries currently have what is known as an "absolute novelty" requirement which means that a public disclosure of an invention anywhere in the world prior to the filing date of an application for patent will act as a bar to the granting of any patent directed to the invention disclosed. Since a disclosure document is not a patent application, it does not help an inventor avoid the forfeiture of U.S. or foreign patent rights.

#### Discussion of Specific Rules

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

*Section 1.21:* Section 1.21(c) currently sets forth a fee (\$10.00) for filing a disclosure document. Section 1.21 is proposed to be amended to remove and reserve paragraph (c) in view of the proposed elimination of the Disclosure Document Program.

#### 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 will not have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 605(b). There is no statutory provision relating to the disclosure document program. The program dates back to 1969, when commercial services were not as abundantly available. Now, there are numerous commercially available "electronic notebooks" that may be used to document evidence of conception of an invention. In addition, inventors may still use a "self-addressed envelope" to mail documents to themselves or they may maintain a logbook containing fixed pages that may be witnessed to document evidence of conception of an invention. Thus, the program is no longer necessary.

##### *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 not significant for purposes of Executive Order 12866 (Sept. 30, 1993).

##### *Paperwork Reduction Act*

The information collection requirements being suspended by this rule were approved in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) by the Office of Management and Budget (OMB) under 0651-0030 disclosure documents. Suspension of the reporting requirements under 0651-0030 is expected to reduce the public reporting burden by 4,445 hours and \$236,000. This proposed rule would thus not impose any additional reporting or record keeping requirements on the public.

Interested persons are requested to send comments to 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 J. Spar, 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 recordkeeping 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 1.21 is amended by removing and reserving paragraph (c).

#### § 1.21 Miscellaneous fees and charges.

\* \* \* \* \*

(c) [Reserved]

\* \* \* \* \*

Dated: March 29, 2006.

**Jon W. Dudas,**

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

[FR Doc. E6-4833 Filed 4-5-06; 8:45 am]

**BILLING CODE 3510-16-P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 60

[EPA-HQ-OAR-2003-0199; FRL-8055-2]

RIN 2060-AL98

#### Alternative Work Practice To Detect Leaks From Equipment

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule amendment.

**SUMMARY:** Numerous EPA air pollution standards require specific work practices for equipment leak detection and repair (LDAR). The current work practice requires the use of a monitor which meets required performance specifications. This work practice is based on 25-year-old technology. New technology has been developed which we believe provides equal, or better, environmental protection than that provided by the current work practice. This action proposes a voluntary alternative work practice (AWP) for

finding leaking equipment using optical gas imaging.

**DATES:** *Comments.* Submit comments on or before June 5, 2006, or 30 days after the date of any public hearing, if later.

*Public Hearing.* If anyone contacts the EPA requesting to speak at a public hearing by April 26, 2006, a public hearing will be held on May 4, 2006.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2003-0199, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- E-mail: [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov).

- Fax: (202) 566-1741.

- Mail: Air Docket, EPA, Mailcode: 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please include a total of two copies.

- Hand Delivery: EPA, 1301 Constitution Avenue, NW., Room B102, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions.* Direct your comments to Docket ID No. EPA-HQ-OAR-2003-0199. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by law. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The Web site <http://www.regulations.gov> is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

*Docket.* All documents in the docket are listed in <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by law. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air and Radiation Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket is (202) 566-1742.

*Public Hearing.* If a public hearing is held, it will begin at 10 a.m. and will be held at the EPA facility complex in Research Triangle Park, North Carolina, or at an alternate facility nearby. Persons interested in presenting oral testimony or inquiring as to whether a public hearing is to be held must contact Mr. David Markwordt; Coatings and Chemicals Group; Sector Policies and Programs Division; EPA; Research Triangle Park, NC 27711; telephone (919) 541-0837.

**FOR FURTHER INFORMATION CONTACT:** For additional information on the proposed rule amendment, review the reports listed in the **SUPPLEMENTARY INFORMATION** section.

*General and technical information.* Mr. David Markwordt, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Coatings and Chemicals Group (C439-03), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-0837, facsimile number (919) 541-0942, electronic mail (e-mail) address: "[markwordt.david@epa.gov](mailto:markwordt.david@epa.gov)."

#### SUPPLEMENTARY INFORMATION:

*Regulated Entities.* The regulated categories and entities affected by the proposed rule amendment include, but are not limited to: