Italian Heritage Festival/Upper Ohio Valley Italian Heritage Festival Fireworks'' land-based fireworks display. During the enforcement period, entry into the safety zone is prohibited for all vessels not registered with the sponsor as participants or official patrol vessels, unless specifically authorized by the Captain of the Port Marine Safety Unit Pittsburgh (COTP) or a designated representative.

DATES: The regulations in 33 CFR 165.801, Table 1, line 14, will be enforced from 9 p.m. through 10:30 p.m., on July 22, 2017.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email MST1 Jennifer Haggins, Marine Safety Unit Pittsburgh, U.S. Coast Guard; telephone 412–221–0807, email *Jennifer.L.Haggins@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone for the annual ''Upper Ohio Valley Italian Heritage Festival/Upper Ohio Valley Italian Heritage Festival Fireworks'' land based fireworks display, listed in the regulations in 33 CFR 165.801, Table 1, Sector Ohio Valley, line 14 from 9 p.m. through 10:30 p.m., on July 22, 2017. Our Sector Ohio Valley Annual and Recurring Safety Zones, § 165.801, specifies the location of the regulated area for the Ohio River, Mile 90.0 to 90.5. Entry into the safety zone is prohibited unless authorized by the Captain of the Port Marine Safety Unit Pittsburgh (COTP) or a designated representative. Persons or vessels desiring to enter into or passage through the safety zone must request permission from the COTP or a designated representative. If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative.

This notice of enforcement is issued under authority of 33 CFR 165.801 and 5 U.S.C. 552(a). In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide advance notification of this enforcement period via Local Notice to Mariners and updates via Marine Information Broadcasts.

Dated: June 28, 2017.

F. Smith,

Lieutenant Commander, U.S. Coast Guard, Captain of the Port Marine Safety Unit Pittsburgh, Acting.

[FR Doc. 2017–15370 Filed 7–20–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

37 CFR Part 2

[Docket No. PTO–T–2017–0025]

RIN 0651–AD22

Miscellaneous Changes to Trademark Trial and Appeal Board Rules of Practice; Clarification

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (''USPTO'') published in the **Federal Register** on October 7, 2016 a final rule, which became effective on January 14, 2017, revising the Rules of Practice before the Trademark Trial and Appeal Board. This document clarifies certain provisions of the rules of practice regarding the deadlines for filing motions to compel discovery, motions to test the sufficiency of responses or objections to requests for admission, and motions for summary judgment. The clarification promotes clarity and reflects ongoing and current practice, in keeping with the goals of efficiency and predictability in the procedure and process of trial cases.

DATES: This rule is effective on July 21, 2017.

FOR FURTHER INFORMATION CONTACT: Cheryl Butler, Trademark Trial and Appeal Board, by email at *TTABFRNotices@uspto.gov,* or by telephone at (571) 272–4259.

SUPPLEMENTARY INFORMATION: The USPTO issues this final rule to clarify the latest time in an inter partes proceeding that certain motions may be filed. The USPTO's October 7, 2016 final rule revising the Trademark Trial and Appeal Board Rules of Practice (81 FR 69950) (published under RIN 0651–AC35), effective January 14, 2017, required that any motion to compel discovery, § 2.120(f)(1), motion to test the sufficiency of responses or objections to requests for admission, § 2.120(i)(1), or motion for summary judgment, § 2.127(e)(1), be filed prior to the deadline for pretrial disclosures for the first testimony period as set or as reset. The USPTO now amends the rules of practice to make clear that such motions must be filed before the day of the deadline for pretrial disclosures for the first testimony period as originally set or as reset.

The amendments promote clarity in the regulations and further the objectives of the January 14, 2017 final rule. They advance the goals of efficiency of inter partes proceedings by streamlining discovery and pretrial procedure, particularly by signaling that the trial phase of the proceedings commences with the deadline for the first pretrial disclosure, by which juncture all discovery disputes will have been resolved or at least brought to the attention of the Board and all parties.

Discussion of Rule Changes

Discovery

The USPTO is amending the third sentence of § 2.120(f)(1) to indicate that a motion to compel discovery must be filed before the day of the deadline for pretrial disclosures for the first testimony period as originally set or as reset.

The USPTO is amending the first sentence of § 2.120(i)(1) to indicate that a motion to determine and test the sufficiency of an answer or objection to a request for admission must be filed before the day of the deadline for pretrial disclosures for the first testimony period as originally set or as reset.

Motions

The USPTO is amending the second sentence of § 2.127(e)(1) to indicate that a motion for summary judgment must be filed before the day of the deadline for pretrial disclosures for the first testimony period as originally set or as reset.

Rulemaking Considerations

Administrative Procedure Act: The changes in this rulemaking involve rules of agency practice and procedure and/or interpretive rules. *See Nat'l Org. of Veterans' Advocates* v. *Sec'y of Veterans Affairs,* 260 F.3d 1365, 1375 (Fed. Cir. 2001) (Rule that clarifies interpretation of a statute is interpretive.); *Bachow Communications 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.).

Accordingly, prior notice and opportunity for public comment for the rule changes are not required pursuant to 5 U.S.C. 553(b) or (c), or any other law. *See Perez* v. *Mortgage Bankers Ass'n,* 135 S. Ct. 1199, 1206 (2015) (Notice-and-comment procedures are required neither when an agency

''issue[s] an initial interpretive rule'' nor ''when it amends or repeals that interpretive rule.''); *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), 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))).

Similarly, the 30-day delay in effectiveness is not applicable because this rule is not a substantive rule. 5 U.S.C. 553(d). As discussed above, this rulemaking involves rules of agency practice and procedure, merely consisting of clarifications to the procedure and timing of filing certain motions in inter partes proceedings. These changes are procedural in nature and will have no impact on the substantive evaluation of a trademark application or registration.

Regulatory Flexibility Act: 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 this rule will not have a significant economic impact on a substantial number of small entities. *See* Regulatory Flexibility Act, 5 U.S.C. 605(b).

This rulemaking involves changes to a rule of agency practice and procedure in matters before the Trademark Trial and Appeal Board. The changes provide greater clarity as to certain deadlines in Board proceedings. This rule does not alter any substantive criteria used to decide cases.

This rule will apply to all persons appearing before the Board. Applicants for a trademark and other parties to Board proceedings are not industry-specific and may consist of individuals, small businesses, non-profit organizations, and large corporations. The Office does not collect or maintain statistics in Board cases on small- versus large-entity parties, and this information would be required in order to determine the number of small entities that would be affected by this rule.

No additional burden is imposed by this rule change. This rule will benefit all the parties to proceedings by increasing certainty, efficiency and clarity in the process, and streamlining the procedures. Therefore, this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12866: This rule has been determined not to be significant for purposes of Executive Order 12866.

Executive Order 13563 (Improving Regulation and Regulatory Review): The Office has complied with Executive Order 13563 (Jan. 18, 2011). Specifically, the Office has, to the extent feasible and applicable: (1) Made a reasoned determination that the benefits justify the costs of the rule changes; (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) provided the public with a meaningful opportunity to participate in the regulatory process, including soliciting the views of those likely affected prior to issuing a notice of proposed rulemaking, and provided online 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, to the extent applicable.

Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs): This rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

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

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 covered rule, the Office will submit a report containing the final rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the Government Accountability Office. The changes in this 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 U.S.-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, this rule change is not covered because it is not expected to result in a major rule as defined in 5 U.S.C. 804(2).

Unfunded Mandate Reform Act of 1995: The Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) requires that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any given year. This rule will have no such effect on State, local, and tribal governments or the private sector.

Paperwork Reduction Act: The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3549) requires that the Office consider the impact of paperwork and other information collection burdens imposed on the public. This rule involves information collection requirements that 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). The collections of information involved in this rulemaking have been reviewed and previously approved by OMB under control numbers 0651–0040 and 0651–0054. This rulemaking does not add any additional information requirements or fees for parties before the Board, and therefore, it does not change the information collection burdens approved under the OMB control numbers 0651–0040 and 0651–0054.

Notwithstanding any other provision of law, no person is required to respond to, nor shall any 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 2

Administrative practice and procedure, Trademarks.

For the reasons given in the preamble and under the authority contained in 15 U.S.C. 1113, 15 U.S.C. 1123, and 35 U.S.C. 2, as amended, the Office is amending part 2 of title 37 as follows:

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 15 U.S.C. 1113, 15 U.S.C. 1123, 35 U.S.C. 2, Section 10(c) of Pub. L. 112–29, unless otherwise noted.

■ 2. Amend § 2.120 by revising paragraphs (f)(1) and (i)(1) to read as follows:

§ 2.120 Discovery.

* * * * *

(f) * * *

(1) If a party fails to make required initial disclosures or expert testimony disclosure, or fails to designate a person pursuant to Rule 30(b)(6) or Rule 31(a) of the Federal Rules of Civil Procedure, or if a party, or such designated person, or an officer, director or managing agent of a party fails to attend a deposition or fails to answer any question propounded in a discovery deposition, or any interrogatory, or fails to produce and permit the inspection and copying of any document, electronically stored information, or tangible thing, the party entitled to disclosure or seeking discovery may file a motion to compel disclosure, a designation, or attendance at a deposition, or an answer, or production and an opportunity to inspect and copy. A motion to compel initial disclosures must be filed within thirty days after the deadline therefor and include a copy of the disclosure(s), if any, and a motion to compel an expert testimony disclosure must be filed prior to the close of the discovery period. A motion to compel discovery must be filed before the day of the deadline for pretrial disclosures for the first testimony period as originally set or as reset. A motion to compel discovery shall include a copy of the request for designation of a witness or of the relevant portion of the discovery deposition; or a copy of the interrogatory with any answer or objection that was made; or a copy of the request for production, any proffer of production or objection to production in response to the request, and a list and brief description of the documents, electronically stored information, or tangible things that were not produced for inspection and copying. A motion to compel initial disclosures, expert testimony disclosure, or discovery must be supported by a showing from the moving party that such party or the attorney therefor has made a good faith effort, by conference or correspondence, to resolve with the other party or the attorney therefor the issues presented in the motion but the parties were unable to resolve their differences. If issues raised in the motion are subsequently resolved by agreement of the parties, the moving party should inform the Board in writing of the issues in the motion which no longer require adjudication.

* * * * *

(i) * * *

(1) Any motion by a party to determine the sufficiency of an answer or objection, including testing the sufficiency of a general objection on the ground of excessive number, to a request made by that party for an admission must be filed before the day of the deadline for pretrial disclosures for the first testimony period, as originally set or as reset. The motion shall include a copy of the request for admission and any exhibits thereto and of the answer or objection. The motion must be supported by a written statement from the moving party showing that such party or the attorney therefor has made a good faith effort, by conference or correspondence, to resolve with the other party or the attorney therefor the issues presented in the motion and has been unable to reach agreement. If issues raised in the motion are subsequently resolved by agreement of the parties, the moving party should inform the Board in writing of the issues in the motion which no longer require adjudication.

* * * * *

■ 3. Amend § 2.127 by revising paragraph (e)(1) to read as follows:

§ 2.127 Motions.

* * * * *

(e)(1) A party may not file a motion for summary judgment until the party has made its initial disclosures, except for a motion asserting claim or issue preclusion or lack of jurisdiction by the Trademark Trial and Appeal Board. A motion for summary judgment must be filed before the day of the deadline for pretrial disclosures for the first testimony period, as originally set or as reset. A motion under Rule 56(d) of the Federal Rules of Civil Procedure, if filed in response to a motion for summary judgment, shall be filed within thirty days from the date of service of the summary judgment motion. The time for filing a motion under Rule 56(d) will not be extended or reopened. If no motion under Rule 56(d) is filed, a brief in response to the motion for summary judgment shall be filed within thirty days from the date of service of the motion unless the time is extended by stipulation of the parties approved by the Board, or upon motion granted by the Board, or upon order of the Board. If a motion for an extension is denied, the time for responding to the motion for summary judgment may remain as specified under this section. A reply brief, if filed, shall be filed within twenty days from the date of service of the brief in response to the motion. The time for filing a reply brief will not be extended or reopened. The Board will consider no further papers in support of or in opposition to a motion for summary judgment.

* * * * *

Dated: July 17, 2017.

Joseph D. Matal,

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

[FR Doc. 2017–15346 Filed 7–20–17; 8:45 am]

BILLING CODE 3510–16–P

POSTAL SERVICE

39 CFR Part 447

Rules of Conduct for Postal Employees

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service is revising its rules concerning employee conduct to specify the circumstances under which a nonbargaining employee may consume intoxicating beverages at an Officer Approved Event or a Postmaster General Approved event. This revision is intended to ensure that the relevant rules conform to the Postal Service's existing practices regarding this matter.

DATES: *Effective date:* August 21, 2017.

FOR FURTHER INFORMATION CONTACT: David B. Ellis at (202) 268–2981, or *david.b.ellis@usps.gov.*

SUPPLEMENTARY INFORMATION: The Postal Service has determined that it is necessary to revise and update its regulations concerning employee conduct to reflect current practices concerning the possession and consumption of intoxicating beverages at officially-approved Postal Service events. The current rules, set forth at 39 CFR 447.21(e), are couched in general terms that fail to provide sufficient guidance to managers or employees.

As revised, the general prohibition against consuming intoxicating beverages on duty is replaced with a rule that intoxicating beverages may be consumed by non-bargaining employees while on duty only if consumption occurs at certain events known as *Officer Approved Events* and *Postmaster General Approved Events.* This change was made because the current regulations' general prohibition against on-duty consumption is not in accordance with Postal Service practice. The Postal Service permits the consumption of intoxicating beverages by nonbargaining employees at business meetings, sales meetings, and recognition events. At such events, Postal Service nonbargaining employees may be on duty because the event occurs during their normal work hours and their attendance is authorized or required, or because they are hosting or