

**§ 510.209 Reconsideration of action.**

(a) The Commissioner, on his own initiative or on the petition of an interested person under part 10 of this chapter, may at any time reconsider part or all of a decision to establish, amend, or revoke an import tolerance.

(b) A petition for reconsideration must be submitted in accordance with § 10.20 of this chapter and in the form specified in § 10.33 of this chapter no later than 30 days after the date of public notification of the decision involved. The Commissioner may, for good cause, permit a petition to be filed more than 30 days after public notification of the decision. The grounds must demonstrate that relevant information contained in the administrative record was not previously or not adequately considered by the Commissioner. No new information may be included in a request for reconsideration. An interested person who wishes to rely on information not included in the administrative record shall submit either a request to amend an import tolerance under § 510.205 or a petition to revoke an import tolerance under § 510.207 and § 10.25 of this chapter.

**§ 510.211 Administrative stay of action.**

(a) The Commissioner, on his or her own initiative or on the request of an interested person under part 10 of this chapter, may at any time stay or extend the effective date of a decision to establish, amend, or revoke an import tolerance.

(b) A request for stay must be submitted in accordance with § 10.20 of this chapter and in the form specified in § 10.35 of this chapter no later than 30 days after public notification of the decision involved. The Commissioner may, for good cause, permit a petition to be filed more than 30 days after public notification of the decision.

Dated: January 19, 2012.

**Leslie Kux,**

*Acting Assistant Commissioner for Policy.*

[FR Doc. 2012-1430 Filed 1-24-12; 8:45 am]

**BILLING CODE 4160-01-P**

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 117**

[Docket No. USCG-2011-1138]

RIN 1625-AA09

**Drawbridge Operation Regulation; Sacramento River, CA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is seeking comments and information on how best to address a proposal to change the operating regulation for the Freeport Drawbridge, mile 46.0, over the Sacramento River. The bridge owner has proposed to change the 6 a.m. and 10 p.m., summer time “on demand” bridge opening hours to a new timeframe between 9 a.m. and 5 p.m.; and to extend the annual winter operating schedule to include the month of October, due to a documented decrease in drawbridge openings compared to other nearby bridges. The proposed change is to address the issue of misalignment between drawbridge staffing and actual usage of the drawbridge that currently appears to be resulting in unnecessary staffing of the drawbridge during periods of navigational inactivity. In addressing this issue, the Coast Guard will continue to ensure the reasonable needs of navigation and maritime users are met. We will use your comments to help determine the best means to resolve this issue.

**DATES:** Comments and related material must either be submitted to our online docket via <http://www.regulations.gov> on or before March 26, 2012 or reach the Docket Management Facility by that date.

**ADDRESSES:** You may submit comments identified by docket number USCG-2011-1138 using any one of the following methods:

(1) *Federal eRulemaking Portal:* <http://www.regulations.gov>.

(2) *Fax:* (202) 493-2251.

(3) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366-9329. To avoid duplication,

please use only one of these four methods. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this notice, call or email David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District; telephone (510) 437-3516, email [David.H.Sulouff@uscg.mil](mailto:David.H.Sulouff@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366-9826.

**SUPPLEMENTARY INFORMATION:****Public Participation and Request for Comments**

We encourage you to respond to this notice by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

**Submitting Comments**

If you submit a comment, please include the docket number for this notice (USCG-2011-1138), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via <http://www.regulations.gov>) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via [www.regulations.gov](http://www.regulations.gov), it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, inserting USCG-2011-1138 in the “Keyword” box, and then clicking “Search.” If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all

comments and material received during the comment period.

### Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, inserting USCG–2011–1138 in the “Keyword” box, and then clicking “Search.” 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. We have an agreement with the Department of Transportation to use the Docket Management Facility.

### Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one before the comment period ends, using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid in solving this problem, we will hold one at a time and place announced by a later notice in the **Federal Register**.

### Background

Anyone may submit a written request to the District Commander for a permanent change to a drawbridge operating requirement. The request must include documentation supporting or justifying the requested change. If after evaluating the request, the District Commander determines that the requested change is not needed, he or she will respond to the request in writing and provide the reasons for denial of the requested change. If the District Commander decides that a change may be needed, he or she will begin a rulemaking to implement the change.

The Freeport, CA Drawbridge, mile 46.0 over the Sacramento River, is owned by the County of Sacramento and maintained by Sacramento and Yolo Counties. Both counties have submitted a request for a permanent change to the

Freeport, CA Drawbridge operating requirements. The existing drawbridge regulation found at 33 CFR 117.189, requires the drawbridges between Isleton, CA and the American River junction (including the Freeport drawbridge), to open on signal from May 1 through October 31 from 6 a.m. to 10 p.m. and from November 1 through April 30 from 9 a.m. to 5 p.m. At all other times, the draws shall open on signal if at least four hours notice is given to the drawtender at the Rio Vista bridge across the Sacramento River, mile 12.8.

The Counties who maintain and operate the drawbridge have proposed to change the summer time “on demand” bridge opening hours from between 6 a.m. and 10 p.m., to between 9 a.m. and 5 p.m.; and to extend the annual winter operating schedule to include the month of October.

The bridge owner has provided bridge operating statistics that show significantly fewer drawspan operations during 2009–2010 than nearby bridges at Georgiana Slough, Tyler Island and Walnut Grove. The statistical information and a detailed explanation by the bridge owner have been included in the docket and are available for public review and comment. The bridge owner also has indicated a significant amount of outreach has been performed on this proposal to various waterway user organizations including the Pacific Inter-Club Yacht Association, the Recreational Boaters of California, the Capital City Yacht Club, the Sacramento Yacht Club, River View Yacht Club and Hornblower Cruises.

The Coast Guard policy regarding the promulgation of drawbridge operation regulations requires that no regulation shall be implemented for the sole purpose of saving the bridge owner the cost to operate a bridge, nor to save wear and tear mechanically on a bridge. It is the bridge owner’s statutory and regulatory responsibility to provide the necessary drawbridge tenders for the safe and prompt opening of a bridge and to maintain drawbridges in good operating condition.

The Freeport Drawbridge provides 29 feet of vertical clearance for vessels above Mean High Water in the closed-to-navigation position and unlimited vertical clearance when open. The Sacramento River is navigable from its confluence with Suisun Bay to mile 245.0 at Red Bluff, CA.

A regulation change to 33 CFR 117.189 may look like the following:

(a) The draws of each bridge from Isleton to the American River junction except for the Sacramento County highway bridge across the Sacramento

River, mile 46.0 at Freeport, shall open on signal from May 1 through October 31 from 6 a.m. to 10 p.m. and from November 1 through April 30 from 9 a.m. to 5 p.m. At all other times, the draws shall open on signal if at least four hours notice is given to the drawtender at the Rio Vista bridge across the Sacramento River, mile 12.8.

(b) The draw of the Sacramento County highway bridge, mile 46.0 at Freeport, shall open on signal from May 1 through September 30 from 9 a.m. to 5 p.m. At all other times, the draw shall open on signal if at least four hours notice is given to the drawtender at the Rio Vista Bridge across the Sacramento River, mile 12.8.

### Information Requested

To aid us in evaluating this proposed rule, we seek response from all waterway users who navigate in this area and may be affected by the proposed change to the existing operating schedule of the Freeport Drawbridge crossing the Sacramento River (found at 33 CFR 117.189): Based on the last analysis of this waterway the Coast Guard determined in 1986 that the existing regulation met the reasonable needs of waterway traffic while still meeting the needs of land traffic. However, that analysis is over twenty years old, thus, we need current information from waterway users. In particular we would like to receive comments addressing the following questions:

(1) Would the proposal to reduce the summertime “on demand” operating hours and to include the month of October in the annual winter operating regulation, result in any negative impact to recreational, commercial or other navigational operation on the waterway?

(2) Would the proposal to reduce the summertime “on demand” operating hours and to include the month of October in the annual winter operating regulation, add or subtract transit time through this bridge or on the waterway?

(3) Would the proposal to reduce the summertime “on demand” operating hours and to include the month of October in the annual winter operating regulation, result in a significant economic impact on a substantial number of small entities as described in the Regulatory Flexibility Act (5 U.S.C. 601–612)? The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

This document is issued under authority of 5 U.S.C. 552(a); 33 CFR 1.05–1, and 1.05–30.

Dated: January 3, 2012.

**J.R. Castillo,**

*Rear Admiral, U.S. Coast Guard, Commander,  
Eleventh Coast Guard District.*

[FR Doc. 2012–1440 Filed 1–24–12; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

#### 37 CFR Part 1

[Docket No. PTO–P–2011–0075]

RIN 0651–AC69

#### Changes To Implement the Supplemental Examination Provisions of the Leahy-Smith America Invents Act and To Revise Reexamination Fees

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The United States Patent and Trademark Office (Office) is proposing to amend the rules of practice in patent cases to implement the supplemental examination provisions of the Leahy-Smith America Invents Act. The supplemental examination provisions permit a patent owner to request supplemental examination of a patent by the Office to consider, reconsider, or correct information believed to be relevant to the patent. These provisions could assist the patent owner in addressing certain challenges to the enforceability of the patent during litigation. The Office is also proposing to adjust the fee for filing a request for *ex parte* reexamination and to set a fee for petitions filed in *ex parte* and *inter partes* reexamination proceedings to more accurately reflect the cost of these processes.

**DATES:** Written comments must be received on or before March 26, 2012.

**ADDRESSES:** Comments should be sent by electronic mail message over the Internet addressed to: [supplemental\\_examination@uspto.gov](mailto:supplemental_examination@uspto.gov). Comments may also be submitted by postal mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450, marked to the attention of Cynthia L. Nessler, Senior Legal Advisor, Office of Patent Legal Administration, Office of the Associate Commissioner for Patent Examination Policy.

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.

Although comments may be submitted by postal mail, the Office prefers to receive comments by electronic mail message over the Internet because sharing comments with the public is more easily accomplished. Electronic comments are preferred to be submitted in plain text, but also may be submitted in ADOBE® portable document format or MICROSOFT WORD® format. Comments not submitted electronically should be submitted on paper in a format that facilitates convenient digital scanning into ADOBE® portable document format.

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

#### FOR FURTHER INFORMATION CONTACT:

Cynthia L. Nessler, Senior Legal Advisor ((571) 272–7724), Kenneth M. Schor, Senior Legal Advisor ((571) 272–7710), or Pinchus M. Laufer, Senior Legal Advisor ((571) 272–7726), Office of Patent Legal Administration, Office of the Associate Commissioner for Patent Examination Policy.

**SUPPLEMENTARY INFORMATION:** The Leahy-Smith America Invents Act was enacted into law on September 16, 2011. See Public Law 112–29, 125 Stat. 284 (2011). The Office is proposing to amend the rules of practice in title 37 of the Code of Federal Regulation (CFR) to implement the supplemental examination provisions of section 12 of the Leahy-Smith America Invents Act. These provisions permit a patent owner to request supplemental examination of a patent by the Office to consider, reconsider, or correct information believed to be relevant to the patent. The Office is also proposing to set certain fees to implement supplemental examination, to adjust the fee for filing a request for *ex parte* reexamination, and to set a fee for petitions filed in *ex parte* and *inter partes* reexamination proceedings.

Section 12 of the Leahy-Smith America Invents Act amends chapter 25 of title 35, United States Code, to add new 35 U.S.C. 257. 35 U.S.C. 257(a) provides for a proceeding titled “supplemental examination” that may be requested by the patent owner to consider, reconsider, or correct information believed to be relevant to the patent in accordance with requirements established by the Office. The information that may be presented in a request for supplemental examination is not limited to patents and printed publications, and may include, for example, issues of patentability under 35 U.S.C. 101 and 112. Within three months of the receipt of a request for supplemental examination meeting the requirements of 35 U.S.C. 257, which include the requirements established by the Office, the Office shall conduct supplemental examination and shall conclude the examination (*i.e.*, determine whether there is a substantial new question of patentability) by the issuance of a supplemental examination certificate. The supplemental examination certificate shall indicate whether the items of information presented in the request raise a substantial new question of patentability.

If the supplemental examination certificate, which is issued under 35 U.S.C. 257(a), indicates that a substantial new question of patentability is raised by one or more items of information in the request for supplemental examination, the certificate will indicate that *ex parte* reexamination has been ordered by the Office. The resulting *ex parte* reexamination proceeding will be conducted according to *ex parte* reexamination procedures, except that the patent owner does not have the right to file a statement pursuant to 35 U.S.C. 304, and the basis of the *ex parte* reexamination is not limited to patents and printed publications. Each substantial new question of patentability identified during the supplemental examination proceeding will be addressed by the Office during the resulting *ex parte* reexamination proceeding. See 35 U.S.C. 257(b).

35 U.S.C. 257(c) specifies the effect of a supplemental examination under 35 U.S.C. 257(a) on the enforceability of the patent. 35 U.S.C. 257(c)(1) provides that, with two exceptions, a patent shall not be held unenforceable on the basis of conduct relating to information that had not been considered, was inadequately considered, or was incorrect in a prior examination of the patent if the information was considered, reconsidered, or corrected during a