

Reform Act of 1998 governs designations of Acting USAs. The removal of authority from USAs is designed to bring DOJ's organizational regulations in compliance with the Act.

**DATES:** This rule is effective October 21, 2016.

**FOR FURTHER INFORMATION CONTACT:** Jay Macklin, General Counsel, Executive Office for United States Attorneys, 600 E Street NW., Suite 5100, Washington, DC 20530; Telephone: (202) 252-1600; Fax: (202) 252-1650.

**SUPPLEMENTARY INFORMATION:** The Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345-3349d, provides that, when a Senate-confirmed officer in an Executive agency "dies, resigns, or is otherwise unable to perform the functions and duties of the office," the First Assistant to that office automatically becomes the acting officer, unless the President designates someone else to perform the functions and duties of the office under 5 U.S.C. 3345(a)(2) or (a)(3). 5 U.S.C. 3345(a)(1). Only individuals performing the functions and duties of a vacant office pursuant to 5 U.S.C. 3345 may use the acting title, because the Act, with exceptions not relevant here, is "the exclusive means for temporarily authorizing an acting official to perform the functions and duties" of an office covered by the Act. 5 U.S.C. 3347. Currently, 28 CFR 0.136, which governs the designation of Acting USAs, is inconsistent with the Act, insofar as it authorizes each USA to designate any AUSA in the office to perform the functions and duties of the USA office and use the title of Acting USA.

The Department's regulations already account for potential USA vacancies under 28 CFR 0.137(b), which provides that each Department office "to which appointment is required to be made by the President with the advice and consent of the Senate (PAS office) shall have a First Assistant within the meaning of the Federal Vacancies Reform Act of 1998," and "[w]here there is a position of Principal Deputy to the PAS office, the Principal Deputy shall be the First Assistant." *Id.* The offices of USAs each have a First Assistant United States Attorney who is considered the Principal Deputy for purposes of § 0.137(b) and, by operation of the Act, automatically becomes the Acting USA when the USA leaves office or is otherwise unable to perform the office's functions or duties, unless the President designates another individual to serve as Acting USA.

### **Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review)**

This rule is limited to agency organization, management, or personnel matters, and accordingly it is not subject to review under Executive Order 12866, § 3(d) (Sept. 30, 1993).

### **Executive Order 13132 (Federalism)**

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132 (Aug. 4, 1999), the Department has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

### **Executive Order 12988 (Civil Justice Reform)**

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Feb. 5, 1996).

### **Administrative Procedure Act**

This rule is exempt from the rulemaking provisions of 5 U.S.C. 553 because this action pertains to rules of agency organization, procedure, and practice. 5 U.S.C. 553(b)(3)(A). Accordingly, it is not necessary to issue this rule using the notice and public procedure set forth in 5 U.S.C. 553(b), and the requirement of a delayed effective date in 5 U.S.C. 553(d) does not apply.

### **Unfunded Mandates Reform Act of 1995**

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*

### **Regulatory Flexibility Act**

The Attorney General, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this rule and, by approving it, certifies that it will not have a significant economic impact on a substantial number of small entities. The rule removes authority that was inconsistent with the Federal Vacancies Reform Act of 1998.

### **Congressional Review Act**

This action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of non-agency parties. Accordingly, it is not a "rule" for purposes of the reporting requirement of 5 U.S.C. 801. *See* 5 U.S.C. 804(3). Therefore, the reports to Congress and the General Accounting Office are not required.

### **List of Subjects in 28 CFR Part 0**

Authority delegations (Government agencies), Government employees, Organization and functions (Government agencies), Privacy, Reporting and recordkeeping requirements, Whistleblowing.

Accordingly, by virtue of the authority vested in me as Attorney General, including 5 U.S.C. 301 and 28 U.S.C. 509 and 510, Chapter I of Title 28 of the Code of Federal Regulations is amended as follows:

### **PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE**

■ 1. The authority citation for part 0 continues to read as follows:

**Authority:** 5 U.S.C. 301; 28 U.S.C. 509, 510, 515-519.

#### **§ 0.136 [Removed and Reserved]**

■ 2. Remove and reserve § 0.136.

Dated: October 14, 2016.

**Loretta E. Lynch,**  
*Attorney General.*

[FR Doc. 2016-25464 Filed 10-20-16; 8:45 am]

**BILLING CODE 4410-07-P**

### **DEPARTMENT OF HOMELAND SECURITY**

#### **Coast Guard**

#### **33 CFR Part 117**

[Docket No. USCG-2016-0941]

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

**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 Tower Drawbridge across the Sacramento River, mile 59.0, at Sacramento, CA. The deviation is necessary to allow the community to participate in the Golden Arches Run event. This deviation allows the bridge to remain in the closed-to-

navigation position during the deviation period.

**DATES:** This deviation is effective from 7:30 a.m. to 11 a.m. on October 23, 2016.

**ADDRESSES:** The docket for this deviation, [USCG–2016–0941], 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.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, 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).

**SUPPLEMENTARY INFORMATION:** California Department of Transportation has requested a temporary change to the operation of the Tower Drawbridge, mile 59.0, over Sacramento River, at Sacramento, CA. The vertical lift bridge navigation span provides a vertical clearance of 30 feet above Mean High Water in the closed-to-navigation position. The draw operates as required by 33 CFR 117.189(a). Navigation on the waterway is commercial and recreational.

The drawspan will be secured in the closed-to-navigation position from 7:30 a.m. to 11 a.m. on October 23, 2016, to allow the community to participate in the Golden Arches Run event. This temporary deviation has been coordinated with the waterway users. No objections to the proposed temporary deviation were raised.

Vessels able to pass through the bridge in the closed position 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 waterway through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators 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 effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: October 17, 2016.

**D.H. Sulouff,**

*District Bridge Chief, Eleventh Coast Guard District.*

[FR Doc. 2016–25479 Filed 10–20–16; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

#### 37 CFR Parts 2 and 7

[Docket No. PTO–T–2016–0005]

RIN 0651–AD08

#### Trademark Fee Adjustment

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

**ACTION:** Final rule.

**SUMMARY:** The United States Patent and Trademark Office (Office or USPTO) is amending its rules to set or increase certain trademark fees, as authorized by the Leahy-Smith America Invents Act (AIA). The fees will allow the Office to further USPTO strategic objectives by: Better aligning fees with the full cost of the relevant products and services; protecting the integrity of the register by incentivizing more timely filing or examination of applications and other filings and more efficient resolution of appeals and trials; and promoting the efficiency of the process, in large part through lower-cost electronic filing options. The changes will also continue to recover the aggregate estimated cost of Trademark and Trademark Trial and Appeal Board (TTAB) operations and USPTO administrative services that support Trademark operations.

**DATES:** This rule is effective on January 14, 2017.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Chicoski, Office of the Deputy Commissioner for Trademark Examination Policy, by email at [TMPolicy@uspto.gov](mailto:TMPolicy@uspto.gov), or by telephone at (571) 272–8943.

#### SUPPLEMENTARY INFORMATION:

*Purpose:* Section 10 of the AIA (Section 10) authorizes the Director of the USPTO (Director) to set or adjust by rule any fee established, authorized, or charged under the Trademark Act of 1946, 15 U.S.C. 1051 *et seq.*, as amended (the Trademark Act or the Act) for any services performed by, or materials furnished by, the Office. *See* Section 10 of the AIA, Public Law 112–29, 125 Stat. 284, 316–17. Section 10 prescribes that fees may be set or adjusted only to recover the aggregate estimated costs to the Office for processing, activities, services, and materials relating to trademarks, including administrative costs to the Office with respect to such Trademark and TTAB operations. The Director may set individual fees at, below, or above their respective cost. Section 10 authority includes flexibility to set individual fees in a way that furthers

key policy considerations, while taking into account the cost of the respective services. Section 10 also establishes certain procedural requirements for setting or adjusting fee regulations, such as public hearings and input from the Trademark Public Advisory Committee (TPAC) and oversight by Congress. Accordingly, on October 14, 2015, the Director notified the TPAC of the Office’s intent to set or adjust trademark fees and submitted a preliminary trademark fee proposal with supporting materials.

The TPAC held a public hearing in Alexandria, Virginia on November 3, 2015 and released its report regarding the preliminary proposed fees on November 30, 2015. The Office considered the comments, advice, and recommendations received from the TPAC and the public in proposing the fees set forth in the notice of proposed rulemaking published in the **Federal Register** on May 27, 2016, at 81 FR 33619. The proposed rule included links to the preliminary trademark fee proposal and associated materials and to the TPAC report. The Office considered all public comments received during the comment period in the development of this final rule.

The USPTO protects consumers and provides benefits to businesses by effectively and efficiently carrying out the trademark laws of the United States. The final rule will advance key policy considerations, while taking into account the cost of individual services. For example, the increased fees for paper filings aim to better align the required fees with the cost of processing paper filings and incentivize electronic filings to promote efficiency of the registration process. Other trademark fees are increased to encourage timely filings and notices to further promote the efficiency of the process.

The fee schedule implemented in this rulemaking will also continue to recover the aggregate estimated costs to the Office to achieve strategic and operational goals, such as maintaining an operating reserve, implementing measures to maintain trademark pendency and high quality, modernizing the trademark information technology (IT) systems, continuing programs for stakeholder and public outreach, and enhancing operations of the TTAB.

*Summary of Major Provisions:* The Office herein sets or adjusts 42 trademark processing and service fees. The fee structure increases the per-class fee for an initial application filed on paper by \$225 to \$600, and increases the fees for 31 other paper filings by between \$75 and \$200 (per class, where