during times of use. The airway segment between the Franklin, PA, VOR 176° and Clarion, PA, VOR/DME 222° radials (GRACE fix) and the Philipsburg, PA, VORTAC is removed. Additionally, the restricted area exclusion language is removed also. The unaffected portions of the existing airway remain as charted.

V–119: V–119 extends between the Henderson, WV, VORTAC and the Clarion, PA, VOR/DME. The airway segment overlying the Clarion, PA, VOR/DME between the Indian Head, PA, VORTAC and the Clarion, PA, VOR/DME is removed. The unaffected portions of the existing airway remain as charted.

V–226: V–226 extends between the intersection of the Franklin, PA, VOR 175° and Clarion, PA, VOR/DME 222° radials (GRACE fix) and the Stillwater, NJ, VOR/DME. The airway segment overlying the Clarion, PA, VOR/DME between the intersection of the Franklin, PA, VOR 175° and Clarion, PA, VOR/DME 222° radials (GRACE fix) and the Keating, PA, VORTAC is removed. The unaffected portions of the existing airway remain as charted.

The NAVAID radials in the VOR Federal airway descriptions below are unchanged and stated in True degrees.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action of amending VOR Federal airways V–6, V–30, V–58, V–119, and V–226, due to the planned decommissioning of the VOR portion of the Clarion, PA, VOR/DME NAVAID, qualifies for categorical exclusion under the National Environmental Policy Act and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. The FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

Paragraph 6010(a) Domestic VOR Federal Airways.

* * * * *

V–6 [Amended]

From Oakland, CA; INT Oakland 039° and Sacramento, CA, 212° radials; Sacramento; Squaw Valley, CA; Mustang, NV; Lovelock, NV; Battle Mountain, NV; INT Battle Mountain 062° and Wells, NV, 256° radials; Wells; 5 miles, 40 miles, 98 MSL, 85 MSL, Lucin, UT; 43 miles, 85 MSL, Ogden, UT; 11 miles, 50 miles, 105 MSL, Fort Bridger, WY; Rock Springs, WY; 20 miles, 39 miles, 95 MSL, Cherokee, WY; 39 miles, 27 miles, 95 MSL, Medicine Bow, WY; INT Medicine Bow 106° and Sidney, NE, 291° radials; Sidney; North Platte, NE; Grand Island, NE; Omaha, IA; Des Moines, IA; Iowa City, IA; Davenport, IA; INT Davenport 087° and DuPage, IL, 255° radials; to DuPage. From INT Chicago Heights, IL, 358° and Gipper, MI, 271° radials; Gipper; to INT Gipper 092° and Litchfield, MI, 196° radials. From Philipsburg, PA; Selinsgrove, PA; Allentown, PA; Solberg, NJ; INT Solberg 107° and Yardley, PA, 068° radials; INT Yardley 068° and La Guardia, NY, 213° radials; to La Guardia.

* * * * *

V–30 [Amended]

From Badger, WI; INT Badger 102° and Pullman, MI, 303° radials; Pullman; to Litchfield, MI. From Philipsburg, PA; Selinsgrove, PA; East Texas, PA; INT East Texas 095° and Solberg, NJ, 264° radials; to Solberg.

* * * * *

V–58 [Amended]

From Philipsburg, PA; to Williamsport, PA. From INT Sparta, NJ, 018° and Kingston, NY, 270° radials; Kingston; INT Kingston 095° and Hartford, CT, 269° radials; Hartford; Groton, CT; Sandy Point, RI; to Nantucket, MA.

* * * * *

V–119 [Amended]

From Henderson, WV; Parkersburg, WV; INT Parkersburg 067° and Indian Head, PA, 254° radials; to Indian Head.

* * * * *

V–226

From Keating, PA; Williamsport, PA; Wilkes-Barre, PA; to Stillwater, NJ.

* * * * *

Issued in Washington, DC, on December 3, 2020.

George Gonzalez,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2020–26914 Filed 12–8–20; 8:45 am]

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DEPARTMENT OF JUSTICE

28 CFR Part 79

[CIV Docket No.159]

Radiation Exposure Compensation Act: Procedures for Claims Submitted at the Statutory Filing Deadline

AGENCY: Civil Division, Department of Justice.

ACTION: Notification of procedures.

SUMMARY: The Department of Justice (''the Department'') is publishing this document to inform the public of the Department's procedures for filing

claims under the Radiation Exposure Compensation Act (''RECA'') at the statutory filing deadline. RECA requires that claims shall be barred unless filed within 22 years after the date of enactment of the Radiation Exposure Compensation Act Amendments of 2000. The Department is publishing this document to articulate its policy that RECA claims that bear a date of July 11, 2022 on the postmark or stamp by another commercial carrier shall be deemed timely filed upon receipt by the Radiation Exposure Compensation Program. The Department will return untimely claims and will not accept electronic submissions. Consistent with the statutory requirement that the Department make a determination within 12 months of filing for timely filed claims, documentation to establish the eligibility of any potential beneficiary of an awarded claim must be provided by July 12, 2023, or the award shall be deemed rejected.

DATES: This document is effective on December 9, 2020.

FOR FURTHER INFORMATION CONTACT: Gerard W. Fischer (Assistant Director), 202–616–4090, Constitutional and Specialized Tort Litigation Section, Torts Branch, Civil Division, Department of Justice, Washington, DC 20530.

SUPPLEMENTARY INFORMATION:

Background

Codified at 42 U.S.C. 2210 note, the Radiation Exposure Compensation Act (''RECA'') offers an apology and monetary compensation to individuals (or their survivors) who have contracted certain cancers and other serious diseases following exposure to radiation released during above-ground atmospheric nuclear weapons tests or following their employment in the uranium production industry during specified periods. This unique program was designed by Congress as an alternative to litigation in that the statutory criteria do not require claimants to establish causation. Rather, if the claimant can satisfy the requirements outlined in the statute, which include demonstrating that he or she contracted a compensable disease after working or residing in a designated location for a specific period of time, he or she qualifies for compensation.

Congress charged the Attorney General with authority to establish filing procedures and responsibility for adjudicating claims under the Act. The Attorney General delegated this function to the Constitutional and Specialized Tort Litigation Section of the Torts Branch of the Civil Division of the United States Department of Justice.

Statutory Deadline for RECA Claims

RECA was enacted on October 15, 1990, by Public Law 101–426. The statute of limitations under Public Law 101–426 set a 20 year period from the date of its enactment for parties to file claims with the Department of Justice. On July 10, 2000, the RECA Amendments of 2000 were enacted as Public Law 106–245. The RECA Amendments of 2000 provided expanded coverage and extended the filing period for claims 22 years from its date of enactment.

As codified at 42 U.S.C. 2210 note (2018), the deadline for claims under RECA is as follows:

Under section 8, Limitations on Claims:

- In general—A claim to which this Act applies shall be barred unless the claim is filed within 22 years after the date of the enactment of the Radiation Exposure Compensation Act Amendments of 2000 [July 10, 2000].
- Resubmittal of claims—After the date of the enactment of the Radiation Exposure Compensation Act Amendments of 2000 [July 10, 2000], any claimant who has been denied compensation under this Act may resubmit a claim for consideration by the Attorney General in accordance with this Act not more than three times. Any resubmittal made before the date of the enactment of the Radiation Exposure Compensation Act Amendments of 2000 shall not be applied to the limitation under the preceding sentence.

RECA delegates authority to the Department to establish procedures whereby individuals may submit claims for payments under the Act. 42 U.S.C. 2210 note (2018), Sec. 6(a). For timely filed claims, RECA requires the Department to complete the determination on each claim filed not later than twelve months after the claim is filed. 42 U.S.C. 2210 note (2018), sec. 6(d)(1).

On March 23, 2004, the Department published a final rulemaking to implement the RECA Amendments of 2000. *See* 69 FR 13628; 28 CFR part 79. The regulation at § 79.71(a) sets forth procedures for filing of claims, and requires them to be submitted in writing on a standard claim form and mailed with supporting documentation to the Radiation Exposure Compensation Program, P.O. Box 146, Ben Franklin Station, Washington DC 20044–0146. The regulation at § 79.71(b) sets forth that ''[t]he Assistant Director will file a claim after receipt of the standard form with supporting documentation and examination for substantial compliance with this part.'' The final rulemaking did not address filing procedures on the statutory deadline for filing claims.

Statement of Policy

As the deadline for filing claims approaches, several stakeholders have requested clarification with respect to the date of the last day for filing claims and the procedures for determining when a claim is filed. RECA does not set forth a method for calculating time. In addition, the apparent statutory filing deadline, July 10, 2022, is a Sunday. Finally, the Department's implementing regulations do not clearly state filing procedures on the last day.

The Department is publishing this document to articulate its policy that RECA claims that bear a date of July 11, 2022 on the postmark or stamp by another commercial carrier shall be deemed timely filed upon receipt by the Radiation Exposure Compensation Program.

A Monday, July 11, 2022 deadline is consistent with methods for computing time set forth at Federal Rule of Civil Procedure 6(a), and with standard agency practice in the event a deadline falls on a weekend or holiday establishing the next business day as the deadline for submissions. The postmark requirement is consistent with the Department's existing procedures for submitting claims at § 79.71(a) and (b), requiring a claim to be submitted in writing on a standard claim form and mailed to the address of the Radiation Exposure Compensation Program. In addition, this policy allows claimants to affirmatively establish the timely filing of their claim by obtaining a postmark or other mailing date stamp consistent with the filing deadline.

The regulation at § 79.71(a) requires that claims be mailed to the Department. Accordingly, the Department will not accept electronically submitted claims.

Claims bearing a date on and after July 12, 2022, as indicated by the postmark or stamp by another commercial carrier, shall be returned to the submitting party due to untimely filing. Claims returned due to untimely filing will include a letter from the Radiation Exposure Compensation Program indicating the Department is barred by statute from reviewing the claim or awarding compensation.

This policy applies to all claims received at the filing deadline, including the resubmission of a previously denied claim under Sec. 8(b) of RECA. Resubmissions of previously denied claims bearing a postmark or stamp by another commercial carrier

dated July 12, 2022 or later shall be returned due to untimely filing.

For timely filed claims in which a share of the compensation award is held in trust pending documentation to establish the eligibility of a potential beneficiary, such shares of compensation shall be deemed rejected consistent with 28 CFR 79.75(b) if sufficient documentation to establish the eligibility of the potential beneficiary is not received within the 12 month determination period provided by the Act, or by July 12, 2023, whichever date falls earlier.

This document is intended to inform the public of the Department's policy regarding procedures for filing claims at the statutory deadline. The Department will post this document to its RECA website at *www.justice.gov/civil/common/reca,* and continue to announce this policy at outreach events and in communications with claimants, counsel, and support groups.

Dated: December 1, 2020.

Gerard W. Fischer,

Assistant Director, Torts Branch, Civil Division.

[FR Doc. 2020–26869 Filed 12–8–20; 8:45 am]

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DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 42

[Docket No. PTO–P–2019–0024]

RIN 0651–AD40

PTAB Rules of Practice for Instituting on All Challenged Patent Claims and All Grounds and Eliminating the Presumption at Institution Favoring Petitioner as to Testimonial Evidence

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (USPTO or Office) revises the rules of practice for instituting review on all challenged claims or none in *inter partes* review (IPR), post-grant review (PGR), and the transitional program for covered business method patents (CBM) proceedings before the Patent Trial and Appeal Board (PTAB or Board) in accordance with the U.S. Supreme Court decision in *SAS Institute Inc.* v. *Iancu* (*SAS*). Consistent with *SAS,* the Office also revises the rules of practice for instituting a review, if at all, on all grounds of unpatentability for the challenged claims that are asserted in a petition. Additionally, the Office revises the rules to conform to the current standard practice of providing sur-replies to principal briefs and providing that a reply and a patent owner response may respond to a decision on institution. The Office further revises the rules to eliminate the presumption that a genuine issue of material fact created by the patent owner's testimonial evidence filed with a preliminary response will be viewed in the light most favorable to the petitioner for purposes of deciding whether to institute a review.

DATES: *Effective date:* The changes in this final rule are effective January 8, 2021.

Applicability date: This final rule applies to all IPR and PGR petitions filed on or after January 8, 2021.

FOR FURTHER INFORMATION CONTACT: Michael Tierney, Vice Chief Administrative Patent Judge, by telephone at 571–272–9797.

SUPPLEMENTARY INFORMATION:

Executive Summary

Purpose: The final rule revises the rules of practice for IPR, PGR, and CBM proceedings that implemented provisions of the Leahy-Smith America Invents Act (AIA) providing for trials before the Office.

The U.S. Supreme Court held in *SAS* that a decision to institute an IPR under 35 U.S.C. 314 may not institute on fewer than all claims challenged in a petition. *See SAS Institute Inc.* v. *Iancu,* 138 S. Ct. 1348 (2018). The Court held that the Office has the discretion to institute on either all of the claims challenged in the petition or to deny the petition. Previously, the Board exercised discretion to institute an IPR, PGR, or CBM on all or some of the challenged claims and on all or some of the grounds of unpatentability asserted in a petition. For example, the Board exercised discretion to authorize a review to proceed on only those claims and grounds for which the required threshold had been met, thus narrowing the issues for efficiency in conducting a proceeding.

In light of *SAS,* the Office provided guidance that, if the Board institutes a trial under 35 U.S.C. 314 or 324, the Board will institute on all claims and all grounds included in a petition of an IPR, PGR, or CBM. To implement this practice in the regulation, this final rule revises the rules of practice for instituting an IPR, PGR, or CBM to require institution on either all challenged claims (and all of the grounds) presented in a petition or none. Under the amended rule, therefore, in all pending IPR, PGR, and CBM proceedings before the Office, the Board will either institute review on all of the challenged claims and grounds of unpatentability presented in the petition or deny the petition.

The second change is conforming the rules to certain standard practices before the PTAB in IPR, PGR, and CBM proceedings. Specifically, this final rule amends the rules to set forth the briefing requirements of sur-replies to principal briefs and to provide that a reply and a patent owner response may respond to a decision on institution.

Finally, this final rule amends the rules to eliminate, when deciding whether to institute an IPR, PGR, or CBM review, the presumption in favor of the petitioner for a genuine issue of material fact created by testimonial evidence submitted with a patent owner's preliminary response. As with all other evidentiary questions at the institution phase, the Board will consider all evidence to determine whether the petitioner has met the applicable standard for institution of the proceeding.

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

Background

On September 16, 2011, the AIA was enacted into law (Pub. L. 112–29, 125 Stat. 284 (2011)), and within one year, the Office implemented rules to govern Office practice for AIA trials, including IPR, PGR, CBM,[1] and derivation proceedings pursuant to 35 U.S.C. 135, 316, and 326 and AIA 18(d)(2). *See* Rules of Practice for Trials Before the Patent Trial and Appeal Board and Judicial Review of Patent Trial and Appeal Board Decisions, 77 FR 48612 (Aug. 14, 2012); Changes to Implement *Inter Partes* Review Proceedings, Post-Grant Review Proceedings, and Transitional Program for Covered Business Method Patents, 77 FR 48680 (Aug. 14, 2012); and Transitional Program for Covered Business Method Patents—Definitions of Covered Business Method Patent and Technological Invention, 77 FR 48734 (Aug. 14, 2012). Additionally, the Office published a Patent Trial Practice Guide to advise the public on the general framework of the regulations, including the structure and times for taking action in each of the new proceedings. *See*

[1] The transitional covered business method patent review program expired on September 16, 2020, in accordance with AIA 18(a)(3). Although the program has sunset, existing CBM proceedings, based on petitions filed before September 16, 2020, are still pending.