less than 3.0 may be placed at a height related to the breadth lower than that prescribed in § 84.03(a)(1), provided that the base angle of the isosceles triangle formed by the side lights and masthead light when seen in end elevation is not less than 27 degrees as determined by the formula in paragraph (b) of this section.

(b) The minimum height of masthead light above sidelights is to be determined by the following formula: Tan $27°=_X/_Y$; where Y is the horizontal distance between the sidelights and X is the height of the forward masthead light.

PART 87—ANNEX IV: DISTRESS SIGNALS

13. The authority citation for part 87 continues to read as follows:

Authority: 33 U.S.C. 2071; 49 CFR 1.46.

14. In § 87.1, revise paragraph (o) to read as follows:

§ 87.1 Need of assistance.

* * * * *

(o) Signals transmitted by radiocommunication systems, including survival craft radar transponders meeting the requirements of 47 CFR 80.1095.

* * * * *

PART 88—ANNEX V: PILOT RULES

15. The authority citation for part 87 continues to read as follows:

Authority: 33 U.S.C. 2071; 49 CFR 1.46.

16. In § 88.13, revise the section heading, revise paragraphs (b) and (c), redesignate paragraph (d) as paragraph (e) and add a new paragraph (d) to read as follows:

§ 88.13 Lights on moored barges.

* * * * *

(b) Barges described in paragraph (a) of this section shall carry two unobstructed all-round white lights of an intensity to be visible for at least 1 nautical mile and meeting the technical requirements as prescribed in § 84.15 of this chapter.

(c) A barge or group of barges at anchor or made fast to one or more mooring buoys or other similar device, in lieu of the provisions of Inland Navigation Rule 30, may carry unobstructed all-round white lights of an intensity to be visible for at least 1 nautical mile that meet the requirements of § 84.15 of this chapter and shall be arranged as follows:

(1) Any barge that projects from a group formation, shall be lighted on its outboard corners.

(2) On a single barge moored in water where other vessels normally navigate on both sides of the barge, lights shall be placed to mark the corner extremities of the barge.

(3) On barges moored in group formation, moored in water where other vessels normally navigate on both sides of the group, lights shall be placed to mark the corner extremities of the group.

(d) The following are exempt from the requirements of this section:

(1) A barge or group of barges moored in a slip or slough used primarily for mooring purposes.

(2) A barge or group of barges moored behind a pierhead.

(3) A barge less than 20 meters in length when moored in a special anchorage area designated in accordance with § 109.10 of this chapter.

* * * * *

PART 90—INLAND RULES: INTERPRETATIVE RULES

17. The authority citation for part 90 continues to read as follows:

Authority: 33 U.S.C. 2071; 49 CFR 1.46(n)(14).

18. Add § 90.5 to read as follows:

§ 90.5 Lights for moored vessels.

A *vessel at anchor* includes a vessel made fast to one or more mooring buoys or other similar device attached to the ocean floor. Such vessels may be lighted as a vessel at anchor in accordance with Rule 30, or may be lighted on the corners in accordance with 33 CFR 88.13.

19. Add § 90.7 to read as follows:

§ 90.7 Sidelights for unmanned barges.

An unmanned barge being towed may use the exception of COLREGS Rule 24(h). However, this exception only applies to the vertical sector requirements for sidelights.

Dated: January 28, 1998.

Joseph J. Angelo,

Acting, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 98–2696 Filed 2–3–98; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. 980108007–8007–01]

RIN 0651–AA97

Changes to Continued Prosecution Application Practice

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: The Patent and Trademark Office (Office) is amending its regulations to remove the requirement that the prior application of a continued prosecution application (CPA) must have been filed on or after June 8, 1995. This requirement is being removed in response to requests from the public.

DATES: *Effective Date:* February 4, 1998.

Applicability Date: This rule change applies to all continued prosecution applications filed on or after December 1, 1997.

Comment Deadline Date: To be ensured of consideration, written comments must be received on or before April 6, 1998. No public hearing will be held.

ADDRESSES: Comments should be sent by mail message over the Internet addressed to regreform@uspto.gov. Comments may also be submitted by mail addressed to: Box Comments—Patents, Assistant Commissioner for Patents, Washington, DC 20231, or by facsimile to (703) 308–6916, marked to the attention of Hiram H. Bernstein. Although comments may be submitted by mail or facsimile, the Office prefers to receive comments *via* the Internet. Where comments are submitted by mail, the Office would prefer that the comments be submitted on a DOS formatted 3¼ inch disk accompanied by a paper copy.

The comments will be available for public inspection in Suite 520, of One Crystal Park, 2011 Crystal Drive, Arlington, Virginia, and will be available through anonymous file transfer protocol (ftp) *via* the Internet (address: ftp.uspto.gov). Since 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: *Concerning this Interim Rule:* Hiram H. Bernstein or Robert W. Bahr, Senior Legal Advisors, by telephone at (703) 305–9285, or by mail addressed to: Box

Comments—Patents, Assistant Commissioner for Patents, Washington, DC 20231, or by facsimile to (703) 308–6916, marked to the attention of Mr. Bernstein.

Concerning § 1.53 in General: John F. Gonzales, Fred A. Silverberg, or Robert W. Bahr, Senior Legal Advisors, at the above-mentioned telephone number.

SUPPLEMENTARY INFORMATION: Section 1.53(d), as amended on December 1, 1997, provides for the filing of a continued prosecution application (CPA). *See Changes to Patent Practice and Procedure;* Final Rule, 62 FR 53131 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* 63 (October 21, 1997) (Final Rule). Section 1.53(d)(1)(i) requires, *inter alia,* that the prior application of a CPA under § 1.53(d) had been filed on or after June 8, 1995. *See* Final Rule, 62 FR at 53186, 1203 *Off. Gaz. Pat. Office* at 112. The rationale for this requirement was:

> Permitting the continued prosecution application practice to be applicable in instances in which the prior application was filed prior to June 8, 1995, would result in confusion as to whether the patent issuing from the continued prosecution application is entitled to the provisions of 35 U.S.C. 154(c). As the continued prosecution application practice was not in effect prior to June 8, 1995, no patent issuing from a continued prosecution application is entitled to the provisions of 35 U.S.C. 154(c).
>
> [The] application number of a continued prosecution application will be the application number of the prior application, and the filing date indicated on any patent issuing from a continued prosecution application will be the filing date of the prior application (or, in a chain of continued prosecution applications, the filing date of the application immediately preceding the first continued prosecution application in the chain). Thus, any patent issuing from a continued prosecution application, where the prior application was filed prior to June 8, 1995, will indicate that the filing date of the application for that patent was prior to June 8, 1995, which will confuse the public (and possible [sic] the patentee) into believing that such patent is entitled to the provisions of 35 U.S.C. 154(c).

See Final Rule, 62 FR at 53144, 1203 *Off. Gaz. Pat. Office* at 74 (response to comment 25).

The rules of practice formerly permitted an applicant to obtain further examination by the filing of a file wrapper continuing (FWC) application under § 1.62. Effective December 1, 1997, however, FWC practice under § 1.62 was abolished in favor of CPA practice under § 1.54(d). *See* Final Rule, 62 FR at 53147, 1203 *Off. Gaz. Pat. Office* at 76–77. As discussed above, § 1.53(d)(1)(i) requires that the prior application of a CPA be filed on or after June 8, 1995. When the prior application was filed before June 8, 1995, and an applicant desires to file what would formerly have been a file wrapper continuation (or divisional), § 1.53 as adopted requires that such a continuation (or divisional) application be filed under § 1.53(b).

Section 1.53(b) requires that any application filed thereunder (including a continuation or divisional) contain a specification (including at least one claim) and any necessary drawing. While § 1.53(b) permits the submission of a rewritten specification (with all prior amendments incorporated), such an option is only practical to those who have the prior application in electronic form. For those applicants who do not have the prior application in electronic form, their only option is to submit a copy of the prior application (including any appendix) along with a copy of all the amendments made in the prior application, as well as copies of all other papers filed in the prior application (*e.g.,* information disclosure statements (IDS's), affidavits, declarations) that are to be considered in the continuing application.

Subsequent to the adoption of the change to § 1.53(d), the Office has received a number of comments indicating that it will take a considerable amount of time to prepare the papers required by § 1.53(b), even when copied from a prior application.

In view of these concerns, the Office is amending § 1.53(d)(1)(i) to eliminate the requirement that the prior application of a CPA had been filed on or after June 8, 1995. Section 1.53(d)(1)(i) as adopted will require that the prior application of a CPA be a nonprovisional application that is either: (1) complete as defined by § 1.51(b); or (2) the national stage of an international application in compliance with 35 U.S.C. 371.

As noted in the Final Rule (quoted above), no patent issuing from a CPA under § 1.53(d) is entitled to the provisions of 35 U.S.C. 154(c). To avoid confusion as to the term of any patent issuing on a CPA of an application filed before June 8, 1995, the Office will include a notice on any patent issuing on a CPA, other than a reissue or a design patent, that: (1) the patent issued on a CPA; and (2) the patent is subject to the twenty-year patent term set forth in 35 U.S.C. 154(a)(2). The term of a design patent is defined in 35 U.S.C. 173 as fourteen (14) years from the date of grant. The term of a reissue patent is defined in 35 U.S.C. 251 as the unexpired part of the term of the original patent. Since the term of any reissue or design patent is not affected by the filing of a CPA, no notice will be printed on either a reissue or a design patent.

Interested members of the public are invited to present written comments on the change to § 1.53(d)(1)(i) contained in this Interim Rule.

Other Considerations

The Commissioner of Patents and Trademarks, pursuant to authority at 5 U.S.C. 553(b)(3)(B), finds good cause to adopt the changes made in this Interim Rule without prior notice and an opportunity for public comment, as such procedures are contrary to the public interest. Delay in the promulgation of this rule to provide notice and comment procedures would cause harm to those applicants who must file a continuation or divisional application promptly to meet the copendency requirements of 35 U.S.C. 120 and who would not be permitted to file a CPA due to the restriction in § 1.53(d)(1)(i). Moreover, immediate implementation of this rule is in the public interest because those applicants currently subject to the prohibition will benefit from the efficiencies and savings resulting from the new rule. *See Nat. Customs Brokers & Forwarders Ass'n* v. *U.S.*, 59 F.3d 1219, 1223–24 (Fed. Cir. 1995). Finally, pursuant to authority at 5 U.S.C. 553 (d)(1), this rule may be made immediately effective because it relieves a restriction.

As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 6012 *et seq.*, are inapplicable.

This rule involves a collection of information subject to the Paperwork Reduction Act, 44 U.S.C. ch. 35, previously approved by the Office of Management and Budget under OMB Control Number 0651–0032. Notwithstanding any other provision of law, no person is required to respond 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.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 12612 (October 26, 1987).

This rule has been determined to be not significant for purposes of Executive Order 12866 (September 30, 1993).

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 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. 6, unless otherwise noted.

2. Section 1.53 is amended by revising paragraph (d)(1)(i) to read as follows:

§ 1.53 Application number, filing date, and completion of application.

* * * * *

(d) * * *

(1) * * *

(i) The prior nonprovisional application is either:

(A) Complete as defined by § 1.51(b); or

(B) The national stage of an international application in compliance with 35 U.S.C. 371; and

* * * * *

Dated: January 28, 1998.

Bruce A. Lehman,

Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

[FR Doc. 98–2732 Filed 2–3–98; 8:45 am]

BILLING CODE 3510–16–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 73

[FRL–5961–4]

Acid Rain Program; Auction Offerors to Set Minimum Prices in Increments of $0.01

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Title IV of the Clean Air Act, as amended by the Clean Air Act Amendments of 1990 (the Act), authorized the Environmental Protection Agency (EPA) to establish the Acid Rain Program to reduce the adverse health and ecological effects of acidic deposition. The program utilizes an innovative system of marketable allowances that are allocated to electric utilities. Title IV mandates that EPA hold yearly auctions of allowances for a small portion of the total allowances allocated each year. Private parties may also offer their allowances for sale in the EPA auctions and specify a minimum sales price. Currently, the regulations require that an offeror's minimum sales price be in whole dollars (see 40 CFR part 73, Subpart E, § 73.70). No such restriction applies to auction bidders and since 1995, EPA has allowed bidders to submit bids in increments of less than a dollar. The restriction on minimum offer prices was originally intended to facilitate administrative ease, but allowing minimum sales prices in increments of $0.01 would not change the design, operation, or administrative burden of the auctions in any way. In addition, it would be consistent with the flexibility afforded auction bidders. Thus, EPA is proposing to amend the current regulations to allow offerors to submit their minimum offer price in increments of $0.01.

Because this rule revision was discussed in an Advance Notice of Proposed Rulemaking (see the June 6, 1996 **Federal Register**, Vol. 61, Number 110, pp. 28995–28998) and EPA received no adverse comments, this revision is being issued as a direct final rule.

DATES: This direct final rule will be effective on March 11, 1998, unless significant, adverse comments are received by March 6, 1998. If significant, adverse comments are received on this direct final rule, the direct final rule will be withdrawn through a notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Kenon Smith, U.S. Environmental Protection Agency, Acid Rain Division (6204J), 401 M Street SW, Washington, DC 20460, (202) 564–9164.

SUPPLEMENTARY INFORMATION: Any significant adverse comments received on this direct final rule, by the date listed above, will be addressed in a subsequent final rule. That final rule will be based on the rule revision that is noticed as a proposed rule in the Proposed Rule Section of this **Federal Register** and that is identical to this direct final rule.

EPA's Acid Rain Program established an innovative, market-based allowance trading system to reduce SO_2 emissions, one of the primary precursors of acid rain. Under this system, fossil fuel-fired power plants, the principal emitters of SO_2, were allotted tradeable allowances based on their past fuel usage and emissions. Each allowance entitles a boiler unit in a plant to emit 1 ton of SO_2 during or after the year specified in the allowance serial number. At the end of the year, the number of allowances a unit holds must equal or exceed the total emissions at that unit; otherwise, stringent penalties will apply. After the year 2000, the total number of allowances allocated each year will be about half of what the utility industry emitted in 1980.

Allowances may be bought, sold, or banked like any other commodity. If a unit has surplus allowances, it may sell them to units whose emissions levels exceed their allowance supply, or it may bank the allowances for future years.

Because the availability of allowances and allowance price information is crucial to ensure the economic efficiency of the emissions limitation program and facilitate the addition of new electric-generating capacity, title IV mandates that EPA hold or sponsor yearly auctions for a small portion of the total allowances allocated each year. The Act also allows private holders of allowances to use the auctions as a vehicle to sell excess allowances. Offerors can set a minimum sales price to insure that their allowances will not sell for less than that price. Both the auction bid prices and minimum offer prices are revealed to the public each year to better inform the allowance market.

Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866, 58 FR 51735 (October 4, 1993), the Administrator must determine whether the regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a ''significant regulatory action'' because the rule does not meet any of the criteria listed above. As such, this action was not submitted to OMB for review.