requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

*C. Collection of Information*

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

*D. Federalism and Indian Tribal Governments*

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has a substantial direct effect 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. We have analyzed this rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

*E. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. This rule will not result in such an expenditure.

*F. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting 3 hours that prohibits entry within 100 yards of the boom. Normally, such actions are categorically excluded from further review under paragraph L60 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

*G. Protest Activities*

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

**List of Subjects in 33 CFR Part 165**

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.2.

■ 2. Add § 165.T11–0114 to read as follows:

**§ 165.T11–0114 Safety Zone; Mission Bay, San Diego, CA.**

(a) *Location.* The following area is a safety zone: Mission Bay located across the entrance channel from the shoreline north of Mariners Cove inlet to a point south of Mission Bay Drive bridge on the Quivira Basin shoreline.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel designated by or assisting the Captain of the Port Sector San Diego (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by VHF Channel 16. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from 9 a.m. until noon on November 15, 2022.

(e) *Information broadcasts.* The COTP or a designated representative will inform the public through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate of the enforcement times and dates for the safety zone.

Dated: November 4, 2022.

**J.W. Spitler,**

*Captain, U.S. Coast Guard, Captain of the Port Sector San Diego.*

[FR Doc. 2022–24664 Filed 11–10–22; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF COMMERCE

## Patent and Trademark Office

## 37 CFR Part 11

**[Docket No. PTO–C–2022–0028]**

**RIN 0651–AD62**

## Eliminating Continuing Legal Education Certification and Recognition for Patent Practitioners

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

**ACTION:** Interim final rule.

**SUMMARY:** The U.S. Patent and Trademark Office (USPTO or Office) amends the rules of practice in patent cases and the rules regarding the representation of others before the USPTO to eliminate provisions regarding voluntary continuing legal education (CLE) certification for registered patent practitioners and individuals granted limited recognition to practice in patent matters before the USPTO. After rules were published on August 3, 2020, providing that registered patent practitioners and persons granted limited recognition to practice in patent matters before the USPTO would be permitted to voluntarily certify completion of CLE to the Director of the Office of Enrollment and Discipline (OED Director) and that the OED Director could publish whether such persons had voluntarily certified, the USPTO indefinitely delayed implementation of the voluntary CLE

certification. After receiving and considering stakeholder feedback on the certification process and possible details regarding implementation, the USPTO has determined that it will not implement the voluntary CLE certification program at this time.

**DATES:**

*Effective date:* November 14, 2022.

*Comment deadline date:* Written comments on the interim final rule must be received on or before December 14, 2022.

**ADDRESSES:** For reasons of Government efficiency, comments on the interim final rule must be submitted through the Federal eRulemaking Portal at *www.regulations.gov.* To submit comments via the portal, commenters should enter docket number PTO–C–2022–0028 on the homepage and click ''search.'' The site will provide search results listing all documents associated with this docket. Commenters can find a reference to this rule and click on the ''Comment Now!'' icon, complete the required fields, and enter or attach their comments. Comments on the interim final rule should be addressed to Will Covey, Deputy General Counsel and OED Director. Attachments to electronic comments will be accepted in Adobe® portable document format (PDF) or Microsoft Word® format. 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.

Visit the Federal eRulemaking Portal for additional instructions on providing comments via the portal. If electronic submission of or access to comments is not feasible due to a lack of access to a computer and/or the internet, please contact the USPTO using the contact information below for special instructions.

**FOR FURTHER INFORMATION CONTACT:** Will Covey, Deputy General Counsel and OED Director, at 571–272–4097.

**SUPPLEMENTARY INFORMATION:** The USPTO amends 37 CFR 11.11(a)(1) and (3) to eliminate provisions concerning the voluntary CLE certification for registered patent practitioners and persons granted limited recognition to practice in patent matters before the USPTO under 37 CFR 11.9.

On August 3, 2020, the USPTO published a final rule providing that registered patent practitioners and persons granted limited recognition to practice in patent matters before the USPTO would be permitted to voluntarily certify completion of CLE to the OED Director (Setting and Adjusting Patent Fees During Fiscal Year 2020, 85 FR 46932). 37 CFR 11.11(a)(3). The final rule also provided that the OED Director may publish whether each registered patent practitioner or person granted limited recognition under 37 CFR 11.9 has voluntarily certified that they completed the specified amount of CLE in the preceding 24 months. 37 CFR 11.11(a)(1).

On October 9, 2020, the USPTO published proposed CLE guidelines with a request for comments (Proposed Continuing Legal Education Guidelines, 85 FR 64128). The USPTO received public comments through January 7, 2021. On June 10, 2021, the USPTO published a **Federal Register** Notice providing, inter alia, that the USPTO would proceed with the voluntary CLE certification in the spring of 2022 (New Implementation Date for Patent Practitioner Registration Statement and Continuing Legal Education Certification, 86 FR 30920). On December 16, 2021, after considering public comments received regarding the proposed CLE guidelines, the USPTO published another **Federal Register** Notice indefinitely delaying implementation of the voluntary CLE certification (New Implementation Date for Voluntary Continuing Legal Education Certification, 86 FR 71453).

After considering public comments, the USPTO has determined that the voluntary CLE certification and recognition for patent practitioners will not be implemented. The USPTO's decision is intended to reflect the Office's focus on the most impactful ways to positively affect the issuance of robust and reliable patents. The USPTO is advancing numerous measures, including working on additional training opportunities for both those at the USPTO and those who practice before the USPTO. The Office has also released detailed guidance, both for those within the USPTO and those who practice before the USPTO, and intends to release more. In addition, the Office hosts video sessions and provides written and other materials to educate those who practice before the USPTO on applicable cases and guidance and on any updates to USPTO practice. Many reputable organizations also provide CLE related to practice before the USPTO and the relevant case law. Much of that CLE is monitored and approved by state bars. The USPTO encourages practitioners to avail themselves of all materials relevant to their practice and add themselves to the relevant USPTO email lists. It is incumbent on all those who practice before the USPTO to do what is necessary to maintain professional competency. Indeed, ''patent prosecutors need to stay abreast of Office policy and procedures, court decisions, and changes in laws to comply with the Office's regulatory requirements under at least 37 CFR 11.5, 6, and 101.'' AIPLA Letter to USPTO on Proposed CLE Guidelines, January 7, 2021, at 5 (available at *www.uspto.gov/sites/default/files/documents/AIPLA_Letter_to_USPTO_on_CLE_Guidance_010721_FINAL.pdf*).

As to the prior USPTO proposal that pro bono work may substitute for legal training, the USPTO actively encourages practitioners to engage in both. Pro bono participation does not substitute for any education necessary for practitioners to maintain professional competency or for patent prosecutors to comply with the Office's regulatory requirements under at least 37 CFR 11.5, 11.6, and 11.101. That said, active participation in patent, trademark, Patent Trial and Appeal Board, and Trademark Trial and Appeal Board pro bono programs is essential for ensuring that all those who can contribute to job creation, economic prosperity, and world problem-solving have access to the innovation ecosystem and have the ability to protect their intellectual property for their benefit and for the good of the country. The USPTO has worked with partners to expand pro bono programs and pro bono opportunities for those who practice before the USPTO, and encourages all such persons to actively engage.

In the future, the Office may reconsider CLE reporting for patent practitioners, and nothing in this rule is intended to restrict or prohibit such action in the future. Accordingly, the USPTO amends 37 CFR 11.11(a)(1) and (3) to eliminate provisions related to the voluntary CLE certification and recognition.

**Discussion of Specific Rules**

The USPTO amends § 11.11 to remove the last sentence in paragraph (a)(1) to reflect the elimination of the voluntary CLE certification for registered patent practitioners and individuals granted limited recognition to practice in patent matters before the USPTO under 37 CFR 11.9, and to remove the entirety of paragraph (a)(3).

**Rulemaking Requirements**

*A. Administrative Procedure Act:* This interim final rule removes the provisions that apply to voluntary CLE certification for registered patent practitioners and individuals granted limited recognition to practice in patent matters before the USPTO under 37 CFR 11.9. The changes in this rulemaking involve rules of agency practice and

procedure, and/or interpretive rules. *See Perez* v. *Mortgage Bankers Ass'n,* 135 S. Ct. 1199, 1204 (2015) (interpretive rules ''advise the public of the agency's construction of the statutes and rules which it administers'') (citations and internal quotation marks omitted); *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 Commc'ns 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 are procedural where they do not change the substantive standard for reviewing claims).

Accordingly, prior notice and opportunity for public comment for the changes in this rulemaking are not required pursuant to 5 U.S.C. 553(b) or (c), or any other law. *See Perez,* 135 S. Ct. at 1206 (notice-and-comment procedures are not required when an agency ''issue[s] an initial interpretive rule'' or 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)(B), do 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))).

Moreover, the Office, pursuant to the authority at 5 U.S.C. 553(b)(B), finds good cause to adopt the changes in this interim final rule without prior notice and an opportunity for public comment, as such procedures would be contrary to the public interest. This interim final rule will remove the provisions related to voluntary CLE certification from the regulations at 37 CFR 11.11(a) to avoid any confusion as to the status of the program. Although the voluntary CLE certification program was codified in the regulations, it was never implemented, and no patent practitioner participated in the program. Implementing this interim rule without prior notice and an opportunity for public comment is in the public interest because the time needed to do so would further delay the removal of the regulations and could lead to confusion as to the current status of the program among practitioners who practice before the USPTO.

In addition, pursuant to the authority at 5 U.S.C. 553(d)(3), the Office finds good cause to adopt the changes in this interim final rule without the 30-day delay in effectiveness, as such delay would be contrary to the public interest. Immediate implementation of the changes in this interim final rule is in the public interest because the time needed to provide the 30-day delay in effectiveness would further postpone the removal of the regulations and could lead to confusion among patent practitioners as to the current status of the program.

*B. Regulatory Flexibility Act:* For the reasons set forth in this rule, the Senior Counsel for Regulatory and Legislative Affairs, Office of General Law, of the USPTO has certified to the Chief Counsel for Advocacy of the Small Business Administration that the changes in this rule will not have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 605(b).

This interim final rule will eliminate the provisions related to voluntary CLE certification. Because the voluntary CLE certification program was never implemented, no registered patent practitioners or persons granted limited recognition to practice in patent matters before the USPTO will be affected. Accordingly, the changes are expected to be of minimal or no additional burden to those practicing before the Office, and this rulemaking will not have a significant economic impact on a substantial number of small entities.

*C. Executive Order 12866 (Regulatory Planning and Review):* This rulemaking has been determined to be not significant for purposes of E.O. 12866 (Sept. 30, 1993).

*D. Executive Order 13563 (Improving Regulation and Regulatory Review):* The USPTO has complied with E.O. 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; (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) involved the public in an open exchange of information and perspectives among experts in relevant disciplines, affected stakeholders in the private sector, and the public as a whole, 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.

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

*F. Executive Order 13175 (Tribal Consultation):* This rulemaking will not: (1) have substantial direct effects on one or more Indian tribes, (2) impose substantial direct compliance costs on Indian tribal governments, or (3) preempt tribal law. Therefore, a tribal summary impact statement is not required under E.O. 13175 (Nov. 6, 2000).

*G. Executive Order 13211 (Energy Effects):* This rulemaking is not a significant energy action under E.O. 13211 because this rulemaking is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required under E.O. 13211 (May 18, 2001).

*H. Executive Order 12988 (Civil Justice Reform):* This rulemaking meets applicable standards to minimize litigation, eliminate ambiguity, and reduce burden, as set forth in sections 3(a) and 3(b)(2) of E.O. 12988 (Feb. 5, 1996).

*I. Executive Order 13045 (Protection of Children):* This rulemaking does not concern an environmental risk to health or safety that may disproportionately affect children under E.O. 13045 (Apr. 21, 1997).

*J. Executive Order 12630 (Taking of Private Property):* This rulemaking will not effect a taking of private property or otherwise have taking implications under E.O. 12630 (Mar. 15, 1988).

*K. 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.*), the USPTO will submit a report containing the interim 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 rulemaking are not expected to result in an annual effect on the economy of $100 million 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 rulemaking is not expected to result in a ''major rule'' as defined in 5 U.S.C. 804(2).

*L. Unfunded Mandates Reform Act of 1995:* The changes in this rulemaking do not involve a Federal intergovernmental mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, of $100 million (as adjusted) or more in any one year, or a Federal private sector mandate that will result in the expenditure by the private sector of $100 million (as adjusted) or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995. *See* 2 U.S.C. 1501 *et seq.*

*M. National Environmental Policy Act of 1969:* This rulemaking will not have any effect on the quality of the environment and is thus categorically excluded from review under the National Environmental Policy Act of 1969. *See* 42 U.S.C. 4321 *et seq.*

*N. National Technology Transfer and Advancement Act of 1995:* The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) are not applicable because this rulemaking does not contain provisions that involve the use of technical standards.

*O. Paperwork Reduction Act of 1995:* The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) requires that the Office consider the impact of paperwork and other information collection burdens imposed on the public. This rulemaking does not involve information collection requirements that are subject to review and approval by the Office of Management and Budget under the Paperwork Reduction Act.

*P. E-Government Act Compliance:* The USPTO is committed to compliance with the E-Government Act to promote the use of the internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes.

**List of Subjects in 37 CFR Part 11**

Administrative practice and procedure, Inventions and patents, Lawyers, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the USPTO amends 37 CFR part 11 as follows:

## PART 11—REPRESENTATION OF OTHERS BEFORE THE UNITED STATES PATENT AND TRADEMARK OFFICE

■ 1. The authority citation for part 11 continues to read as follows:

**Authority:** 5 U.S.C. 500; 15 U.S.C. 1123; 35 U.S.C. 2(b)(2), 32, 41; Sec. 1, Pub. L. 113–227, 128 Stat. 2114.

**§ 11.11 [Amended]**

■ 2. Amend § 11.11 by:
■ a. Removing from paragraph (a)(1) the last sentence; and
■ b. Removing paragraph (a)(3).

**Katherine K. Vidal,**

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

[FR Doc. 2022–24676 Filed 11–10–22; 8:45 am]

**BILLING CODE 3510–16–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R09–OAR–2022–0131; FRL–9739–02–R9]**

## Clean Air Plans; Base Year Emissions Inventories for the 2015 Ozone Standards; Nevada; Clark County, Las Vegas Valley

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving, under the Clean Air Act (CAA or ''Act''), revisions to the Nevada state implementation plan (SIP) concerning the base year emissions inventory requirements for the Las Vegas Valley ozone nonattainment area for the 2015 ozone national ambient air quality standards (NAAQS or ''standards'').

**DATES:** This rule is effective December 15, 2022.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2022–0131. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Lindsay Wickersham, Air Planning Office (AIR–2), EPA Region IX, (415) 947–4192, *wickersham.lindsay@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document, ''we,'' ''us,'' and ''our'' refer to the EPA.

**Table of Contents**



### I. Proposed Action

On October 15, 2020, the Nevada Department of Environmental Protection (NDEP) submitted a revision to the Nevada SIP titled, ''Revision to the Nevada State Implementation Plan for the 2015 Ozone NAAQS: Emissions Inventory and Emissions Statement Requirements'' (''2020 Clark County EI''). The 2020 Clark County EI submittal includes a 2017 base year emissions inventory for the Las Vegas Valley nonattainment area and supporting documentation regarding the development of the inventory, developed by the Clark County Department of Environment and Sustainability (CCDES). CCDES provided supplementary information to the 2020 Clark County EI on February 10, 2022, February 14, 2022, and March 30, 2022, to address comments and questions raised by the EPA on receipt of CCDES's prior submittal. Together these three supplementary exchanges are known as the ''2020 Clark County SI.''

On June 13, 2022, the EPA proposed to approve the 2020 Clark County EI and the 2020 Clark County SI as meeting the ozone-related base year emissions inventory requirement for the Las Vegas Valley ozone nonattainment area for the 2015 ozone NAAQS.[1] Our June 13, 2022 proposed rule also discussed the following: background on the 2015 ozone NAAQS; an overview of the base year emissions inventory requirements for the 2015 ozone NAAQS under sections 172(c)(3) and 182(a)(1) of the CAA and under the EPA's implementing regulations for the 2015 ozone NAAQS at 40 CFR 51.1315; an overview of NDEP's SIP revisions submitted to meet the ozone base year emissions inventory requirement for the Las Vegas Valley nonattainment area; a discussion of the

[1] 87 FR 35705.