with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule. 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.

While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator. As discussed in the NPRM, commercial traffic on Broad Creek, DE has not been present since the 1970s. The gradual change in the characteristics of the waterway shows that there will not be a significant economic impact of changing the drawbridge operating regulations on Broad Creek, DE.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Government

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. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule simply promulgates the operating regulations or procedures for drawbridges. This action is categorically excluded from further review, under figure 2–1, paragraph (32)(e), of the Instruction.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact 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 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; and Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 117.233 to read as follows:

§ 117.233 Broad Creek.

The draws of the Norfolk Southern bridge, mile 8.0, the Poplar Street Bridge, mile 8.2 and the U.S. 13A Bridge, mile 8.25, all in Laurel, need not open for the passage of vessels.

Dated: May 18, 2016.

Meredith L. Austin,

Rear Admiral, United States Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 2016–12627 Filed 5–26–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 11

[Docket No.: PTO–C–2015–0018]

RIN 0651–AC99

USPTO Law School Clinic Certification Program

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (''Office'' or ''USPTO'') is issuing a final rule to comply with a Public Law enacted on December 16, 2014. This law requires the USPTO Director to establish regulations and procedures for application to, and participation in, the USPTO Law School Clinic Certification Program. The program allows students enrolled in a participating law school's clinic to practice patent and trademark law before the USPTO under the direct supervision of an approved faculty clinic supervisor by drafting, filing, and prosecuting patent or trademark applications, or both, on a *pro bono* basis for clients who qualify for assistance from the law school's clinic.

DATES: This rule is effective on June 27, 2016.

FOR FURTHER INFORMATION CONTACT: William R. Covey, Deputy General Counsel and Director of the Office of Enrollment and Discipline (''OED''), by telephone at 571–272–4097.

SUPPLEMENTARY INFORMATION:

Executive Summary

Purpose: This final rule implements Public Law 113–227 (Dec. 16, 2014). The law requires the USPTO Director to establish regulations and procedures for application to, and participation in, the USPTO Law School Clinic Certification Program. The program allows students enrolled in a participating law school's clinic to practice patent and trademark law before the USPTO by drafting, filing, and prosecuting patent or trademark applications, or both, on a *pro bono* basis for clients who qualify for assistance from the law school's clinic. The program provides law students enrolled in a participating clinic the opportunity to practice patent and trademark law before the USPTO under the direct supervision of an approved faculty clinic supervisor. In this way, these student practitioners gain valuable experience drafting, filing, and prosecuting patent and trademark applications that would otherwise be unavailable to them. The program also facilitates the provision of *pro bono* services to trademark and patent applicants who lack the financial resources to pay for legal representation.

Summary of Major Provisions: The USPTO is adding §§ 11.16 and 11.17 to part 11 of title 37 of the Code of Federal Regulations to formalize the process by which law schools, law school faculty, and law school students may participate in the USPTO Law School Clinic Certification Program.

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

Discussion of Specific Rules

The following is a discussion of the amendments to part 11, title 37, of the Code of Federal Regulations in this final rule.

Section 11.1: Section 11.1 is amended to clarify the definition of ''attorney'' or ''lawyer'' by inserting the word ''active'' before ''member,'' inserting the phrase ''of the bar'' before the phrase ''of the highest court,'' and deleting the clause ''including an individual who is in good standing of the highest court of one State and not under an order of any court or Federal agency suspending, enjoining, restraining, disbarring or otherwise restricting the attorney from practice before the bar of another State or Federal agency.''

This revision clarifies that to be considered an ''attorney'' or ''lawyer'' one must be an active member, in good standing, of the highest court of any State, and otherwise eligible to practice law. With such revision the aforementioned clause had become surplusage and was struck for that reason. The term ''State'' is elsewhere defined in § 11.1 to mean any of the 50 states of the United States of America, the District of Columbia, and any Commonwealth or territory of the United States of America.

Section 11.1 is also amended to ensure the term ''practitioner'' includes students admitted to the program by insertion of the following language: ''(4) An individual authorized to practice before the Office under § 11.16(d).''

The USPTO is amending the term ''practitioner'' to specifically include those students authorized to participate in the USPTO Law School Clinic Certification Program. The mechanism by which such students are authorized to participate is through a grant of limited recognition. Once granted limited recognition, students are deemed practitioners for the term of the limited recognition and, as such, are subject to the USPTO Rules of Professional Conduct. By definition, only ''practitioners'' may represent others before the Office. Law school students who are not participating in the USPTO Law School Clinic Certification Program may not practice before the USPTO, unless otherwise authorized to do so.

Section 11.16, previously reserved, is amended to add: Criteria for admission to, and continuing participation in, the USPTO Law School Clinic Certification Program; the qualifications necessary for approval as a Faculty Clinic Supervisor; and the requirements for granting limited recognition to law school students. Schools participating in the program as of the date the final rule is published will not be required to reapply for admission but must apply for renewal at such time as the OED Director establishes. These criteria, deadlines for admission, and any ancillary requirements, are published in a bulletin on OED's law school clinic Web page.

Section 11.16(a) describes the purpose of the program.

Section 11.16(b) establishes rules regarding applying for, and renewing, admission to the program. Law schools already enrolled in the program are not required to submit a new application. Although not required to apply for re-admission, participating law schools seeking to add a practice area (*i.e.,* patents or trademarks) are required to submit an application for such practice area. This section also establishes that all law schools are required to submit a renewal application on a biennial basis.

Section 11.16(c) specifies that Faculty Clinic Supervisors are subject to the USPTO Rules of Professional Conduct, including those governing supervisory practitioners. *See e.g.,* 37 CFR 11.501 and 11.502. As such, Faculty Clinic Supervisors, as well as the respective law school deans, are responsible for ensuring their schools have established a process that identifies potential conflicts of interest.

Generally, the OED Director makes a determination regarding a proposed Faculty Clinic Supervisor's eligibility as part of the process of considering a law school's application for admission to the program. The OED Director may also make a determination whether to approve an additional, or a replacement, supervisor for a currently participating clinic. In determining whether a Faculty Clinic Supervisor candidate possesses the number of years of experience required by paragraphs (c)(1)(ii) and (c)(2)(ii), the OED Director will measure the duration of experience from the date of the candidate's request for approval. Any additional criteria established by the OED Director, as set forth in paragraphs (c)(1)(v) and (c)(2)(v), will be published in a bulletin on the Office of Enrollment and Discipline's law school clinic Web page.

Each practice area must be led by a fully-qualified, USPTO-approved, Faculty Clinic Supervisor. A law school's clinic may include a patent practice, a trademark practice, or both, provided that they are approved by the USPTO. The USPTO does not have a preference whether a law school includes both practice areas in one clinic or separates each discipline into its own clinic. For law school clinics approved to practice in both the patent and trademark practice areas, the USPTO may approve one individual to serve as a Faculty Clinic Supervisor for both practice areas, provided that the individual satisfies the USPTO's criteria to be both a Patent Faculty Clinic Supervisor and a Trademark Faculty Clinic Supervisor.

Section 11.16(d) provides the rules for providing limited recognition to students for the purpose of practicing before the USPTO. It provides that registered patent agents, and attorneys enrolled in a Master of Laws (L.L.M.) program, who wish to participate in a clinic must abide by the same rules and procedures as other students in the program.

Section 11.17 establishes rules concerning the continuing obligations of

schools participating in the USPTO Law School Clinic Certification Program and specifies those circumstances that may result in inactivation or removal of a school from the program.

Section 11.17(a) restates the requirement in Public Law 113–227 that services rendered under the program will be provided on a *pro bono* basis.

Section 11.17(b) establishes procedures for law schools to report their program activities to the USPTO.

Section 11.17(c) establishes procedures for inactivating a law school clinic. Inactive law schools are still considered by the USPTO to be ''participating'' in the program.

Section 11.17(d) establishes procedures for removing a law school from the program and explains the obligations of student practitioners in such event.

Comments and Responses to Comments: The Office published a notice of proposed rulemaking on December 16, 2015, proposing to amend its rules to implement Public Law 113–227 by creating rules governing the Law School Clinic Certification Program. *See USPTO Law School Clinic Certification Program,* 80 FR 78155 (Dec. 16, 2015). Six members of the public submitted comments. Of these commenters, five are currently participating law school clinics. These comments are discussed below.

Comment 1: Five commenters addressed the reporting requirement in § 11.17(b). As proposed, that provision would have required participating schools to provide OED each quarter with: (1) The number of law students participating in each of the patent and trademark practice areas of the school's clinic in the preceding quarter; (2) The number of faculty participating in each of the patent and trademark practice areas of the school's clinic in the preceding quarter; (3) The number of consultations provided to persons who requested assistance from the law school clinic in the preceding quarter; (4) The number of client representations undertaken for each of the patent and trademark practice areas of the school's clinic in the preceding quarter; (5) The identity and number of applications and responses filed in each of the patent and/or trademark practice areas of the school's clinic in the preceding quarter; (6) The number of patents issued, or trademarks registered, to clients of the clinic in the preceding quarter; and (7) any other information specified by the OED Director. Four comments recommended that this information be provided annually or semi-annually. Three commenters pointed out that the Internal Revenue Service's clinical program requires only semi-annual reporting. Two commenters suggested that § 11.17(b) should not require the reporting of information already in the possession of the USPTO. These commenters asserted that the number of participating students and faculty is already known to OED. The commenters also contended that OED can easily use a clinic's customer number(s) to look up patent filings as well as registrations. As for trademark applications, the commenters contended that these are easily identifiable as the school's TMCP tracking code must be included in the application.

Response: After due consideration of the comment, the Office agrees to reduce the reporting requirement to two times per year. The final rule incorporates these commenters' suggestions in this regard but leaves in place the other items required to be reported. Public Law 113–227 requires the USPTO to provide the Committees on the Judiciary of the House of Representatives and the Senate a report on the program that describes the number of law schools and law students participating in the program, the work done through the program, the benefits of the program, and any recommendations of the USPTO Director for modifications to the Program. This reporting requirement is designed to allow the USPTO to satisfy the requirements of the law. Each clinic director should at all times know the number of participating students and faculty, and should be keeping a running tally of the number of client visits, the numbers of filings, and the numbers of patents issued or trademarks registered. Gathering and reporting the information should be of minimal burden.

The recommendation to eliminate the requirement to report participating students is based on an incorrect premise that OED is already in possession of such data. Although OED records the names of clinic students who have been granted limited recognition, students may participate in a clinic without limited recognition. Therefore, OED cannot know the total number of participating students without the assistance of the law schools.

Similarly, OED's ability to measure program success would be made significantly more difficult if the requirement to report trademark and patent filings were eliminated. OED is not resourced to review multiple applications for the purpose of discerning those submitted under the program. Conversely, each participating clinic prosecutes a relatively small number of applications. For 2015, patent clinics filed fewer than five applications, on average. Trademark clinics averaged fewer than 14 applications for the year. The Office notes that the IRS requires a significantly greater amount of information in the semi-annual reports required of its Low Income Taxpayer Clinic programs. IRS clinics must file nearly 20 pages of forms requiring the input of hundreds of data fields. *See* Appendix C, IRS Pub. 3319 (2016). As a final point, the feedback the Office has received from the vast majority of the clinics is that this reporting requirement is not burdensome. For these reasons, the Office does not find that this reporting item is overly burdensome.

Comment 2: Section 11.17(b) would have required law school clinics to report the numbers of consultations and representations undertaken each quarter. Three commenters recommended defining the terms ''consultations'' and ''representations.''

Response: After due consideration of the comment, the Office agrees with the recommendations that the term ''consultation'' be clarified, and has revised the final rule to eliminate any ambiguities. The final rule now eliminates the word ''consultation'' and simply requires reporting the ''number of persons to whom the school's clinic provided assistance in any given patent or trademark matter but with whom no practitioner-client relationship had formed.'' The term ''representation,'' on the other hand, requires no definition. Within the legal field, the term is well-understood as the act of providing legal advice to a client, or serving as an attorney for a client in a proceeding or transaction. For example, clinics should take credit for having undertaken a representation where the clinic has: (1) Issued a client an opinion regarding patentability, infringement, or the registrability of a trademark; (2) given advice, or taken action, regarding a patent or trademark application, or (3) provided any other service directly related to practice before the USPTO.

Comment 3: Four commenters stated that the USPTO should withdraw § 11.17(b)(7), the provision granting the OED Director the authority to ask for additional information not already specified. One commenter also sought to remove or amend §§ 11.16(c)(1)(v), 11.16(c)(2)(v), 11.16(c)(3)(vii), 11.16(d)(2)(ix), and 11.16(d)(3)(viii), as well. These provisions allow the OED Director to establish additional criteria for approving the participation of Faculty Clinic Supervisors and law students. The commenters expressed concern with the open-ended nature of

these provisions. Three commenters argued that any additional information-reporting requirements could serve as a disincentive to law schools from joining the program and could actually cause schools to leave the program rather than comply with the reporting requirement.

Response: After due consideration of the comment, the Office declines to adopt the recommendations. In order to effectively monitor the program and meet Congressional intent, the OED Director must retain flexibility to run the program so as to properly protect the public and gauge program impact. Since the inception of the pilot program in 2008, the OED Director has had wide latitude in this regard. The Office is aware of no law school that was dissuaded from joining the program, or withdrew from the program, because the participation requirements were set by the OED Director rather than by regulation. OED has always sought to minimize administrative burdens on the clinics and will endeavor to do so in the future.

Comment 4: Section 11.16(d)(2)(viii) requires participating students to demonstrate they possess the scientific and technical qualifications necessary for rendering valuable services to patent applicants to obtain limited recognition. One commenter requested that this provision be withdrawn. The commenter argued that there is no harm to granting a non-qualified student limited recognition to practice before the Office in patent matters. The commenter also pointed out that it is difficult to find students with such qualifications. The commenter posited that by allowing non-qualified students to participate, they may become motivated to obtain the requisite scientific and technical competencies.

Response: After due consideration of the comment, the Office declines to adopt the recommendation. The Office appreciates the difficulties law schools face in trying to find technically qualified students for the patent practice area. During the pilot program, OED entertained requests to grant limited recognition, on a case-by-case basis, to students with a strong technical or scientific background where the student needed only a few credit hours to become fully qualified. OED will continue this practice. Any such student who is granted limited recognition must meet all qualifications and requirements before the student may become a registered practitioner. Finally, as discussed above in the response to Comment 1, students without technical or scientific backgrounds may participate in patent clinics. They cannot, however, receive limited recognition, actually file papers with the Office, or be of record in a patent application.

Comment 5: One commenter suggested OED should consider whether Faculty Clinic Supervisors are attorneys when evaluating their fitness. The comment appears to argue that patent agents are not qualified to serve as patent Faculty Clinic Supervisors on account of the fact that they are not necessarily trained in areas of the law that overlap with patent prosecution, such as licensing and corporate organization.

Response: Patent agents are eligible to serve as Faculty Clinic Supervisors provided they meet the criteria set forth in the final rule. With regard to practice in patent prosecution matters before the Office, patent agents and patent attorneys stand on an equal footing. To the extent this comment is proposing to exclude patent agents from service as Faculty Clinic Supervisors, the Office declines to incorporate such revisions in the final rule. Patent agents are fully capable of advising clients on patent matters before the Office and imparting relevant knowledge to their students. *See generally Sperry* v. *Florida,* 373 U.S. 379 (1963); *see also* In re *Queen's Univ. at Kingston,* No. 2015–145 at 14 (Fed. Cir. Mar. 7, 2016) (''patent agents are not simply engaging in law-like activity, they are engaging in the practice of law itself''). The USPTO's interest lies in ensuring that Faculty Clinic Supervisors are qualified to practice in patent matters before the Office. To the extent a law school should seek to supplement the instruction given to its students in other areas of the law, it is free to so act.

Comment 6: One commenter urges the rule to make permanent the ''Request to Make Special Program.'' This program allows patent clinics to submit a predetermined number of requests to make special per semester.

Response: After due consideration of the comment, the Office declines to revise the rule accordingly. Such a revision would be outside the scope of this rulemaking, which is designed to establish the framework for administering the program. This rulemaking is not designed to regulate the manner in which individual patents are to be prosecuted.

Comment 7: One commenter urges the rule to include a provision to grant law school clinics the full six months allowed by 35 U.S.C. 133 to respond to an Office action.

Response: After due consideration of the comment, the Office declines to revise the rule accordingly. Such a revision would be outside the scope of this rulemaking, which is designed to establish the framework for administering the program. The rulemaking is not designed to regulate the manner in which individual patents are to be prosecuted.

Comment 8: One commenter urged revision of § 11.16(c)(1)(iv), (c)(2)(iv), and (c)(3). These provisions keep in place the requirement established in the pilot program that Faculty Clinic Supervisors bear full responsibility for the legal services provided by their clinics. The commenter suggested that Faculty Clinic Supervisors should only bear ''supervisory responsibility'' for the legal services provided.

Response: After due consideration of the comment, the Office declines to revise the rule to include this provision. During the course of prosecution of a patent application, students assisting in the prosecution will enter and depart the program. During the summer months and semester breaks, there may be no students participating in a particular clinic. Only a Faculty Clinic Supervisor has the permanence to be able to properly prosecute an application. Moreover, only a Faculty Clinic Supervisor is a registered patent practitioner. The Office also notes that the fully responsible standard has been in place since the inception of the pilot program.

Rulemaking Considerations

A. Administrative Procedure Act: The changes in this final rulemaking involve rules of agency practice and procedure, and/or interpretive rules. *See Perez* v. *Mortg. 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'') (citation 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 were procedural where they did not change the substantive standard for reviewing claims). The Office received no public comment on this section or any of the other sections under Rulemaking Considerations.

Accordingly, prior notice and opportunity for public comment for the changes in this final 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 required neither when an agency ''issue[s] an initial interpretive rule'' nor ''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), does 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)). The Office, however, published proposed changes for comment as it sought the benefit of the public's views on the Office's proposed rule.

B. Regulatory Flexibility Act: The Deputy General Counsel, United States Patent and Trademark Office, has certified to the Chief Counsel for Advocacy, Small Business Administration, that the changes in this final rule will not have a significant economic impact on a substantial number of small entities (Regulatory Flexibility Act, 5 U.S.C. 605(b)). The USPTO Law School Clinic Certification Program is voluntary. Law schools, clinics, and clients may elect whether to participate in the program, and receive the benefits thereof. The primary effect of this rulemaking is not economic, but simply to formalize the requirements and procedures developed and implemented during the pilot phase of the program. The rulemaking implements certain basic semi-annual reporting requirements by participating law school clinics in order to provide information to the Office pertaining to the quality and use of their *pro bono* services. The information required for the report should be readily available to participating law school clinics and presents a minimal administrative burden. Additionally, the Office currently has 47 participating law school clinics, and it is expected that this number may increase slightly. Accordingly, this reporting requirement and the 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 Executive Order 12866 (September 30, 1993).

D. Executive Order 13563 (Improving Regulation and Regulatory Review): The Office has complied with Executive Order 13563. 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 on-line 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: This rulemaking does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (August 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 Executive Order 13175 (Nov. 6, 2000).

G. Executive Order 13211 (Energy Effects): This rulemaking is not a significant energy action under Executive Order 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 Executive Order 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 Executive Order 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 Executive Order 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 Executive Order 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.*), prior to issuing any final rule, the United States Patent and Trademark Office will submit a report containing the 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 final rule are not expected to result in an annual effect on the economy of 100 million dollars or more, a major increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, this document 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 final rule 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 dollars (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 dollars (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: This rulemaking will not have any effect on the quality of 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: 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 which involve the use of technical standards.

O. Paperwork Reduction Act: 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 involves information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3549). New information will be collected in the Law School Clinic Certification Program, OMB

Control No. 0651–0081. Information about the collection is available at the OMB's Information Collection Review Web site (*www.reginfo.gov/public/do/PRAMain*).

The following item was formerly in a different OMB-approved collection (0651–0012 Admission to Practice): Application by Student to Become a Participant in the Program (PTO–158LS). This form has now been transferred to the Law School Clinic Certification Program (0651–0081). This transfer has consolidated all information collections relating to law student involvement in the Law School Clinic Certification Program into a single collection.

Notwithstanding any other provision of law, no person is required to respond to, nor shall any 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.

List of Subjects in 37 CFR Part 11

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

For the reasons stated in the preamble, 37 CFR part 11 is amended as follows:

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

■ 1. The authority citation for part 11 is revised 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.

■ 2. In § 11.1, the definitions of ''*Attorney* or *lawyer*'' and ''*Practitioner*'' are revised to read as follows:

§ 11.1 Definitions.

* * * * *

Attorney or *lawyer* means an individual who is an active member in good standing of the bar of the highest court of any State. A *non-lawyer* means a person who is not an attorney or lawyer.

* * * * *

Practitioner means:

(1) An attorney or agent registered to practice before the Office in patent matters;

(2) An individual authorized under 5 U.S.C. 500(b), or otherwise as provided by § 11.14(a), (b), and (c), to practice before the Office in trademark matters or other non-patent matters;

(3) An individual authorized to practice before the Office in a patent case or matters under § 11.9(a) or (b); or

(4) An individual authorized to practice before the Office under § 11.16(d).

* * * * *

■ 3. Add § 11.16 to read as follows:

§ 11.16 Requirements for admission to the USPTO Law School Clinic Certification Program.

(a) The USPTO Law School Clinic Certification Program allows students enrolled in a participating law school's clinic to practice before the Office in patent or trademark matters by drafting, filing, and prosecuting patent or trademark applications on a *pro bono* basis for clients that qualify for assistance from the law school's clinic. All law schools accredited by the American Bar Association are eligible for participation in the program, and shall be examined for acceptance using identical criteria.

(b) *Application for admission and renewal*—(1) *Application for admission.* Non-participating law schools seeking admission to the USPTO Law School Clinic Certification Program, and participating law schools seeking to add a practice area, shall submit an application for admission for such practice area to OED in accordance with criteria and time periods set forth by the OED Director.

(2) *Renewal application.* Each participating law school desiring to continue in the USPTO Law School Clinic Certification Program shall, biennially from a date assigned to the law school by the OED Director, submit a renewal application to OED in accordance with criteria set forth by the OED Director.

(3) The OED Director may refuse admission or renewal of a law school to the USPTO Law School Clinic Certification Program if the OED Director determines that admission, or renewal, of the law school would fail to provide significant benefit to the public or the law students participating in the law school's clinic.

(c) *Faculty Clinic Supervisor.* Any law school seeking admission to or participating in the USPTO Law School Clinic Certification Program must have at least one Faculty Clinic Supervisor for the patent practice area, if the clinic includes patent practice; and at least one Faculty Clinic Supervisor for the trademark practice area, if the clinic includes trademark practice.

(1) *Patent Faculty Clinic Supervisor.* A Faculty Clinic Supervisor for a law school clinic's patent practice must:

(i) Be a registered patent practitioner in active status and good standing with OED;

(ii) Demonstrate at least 3 years experience in prosecuting patent applications before the Office within the 5 years immediately prior to the request for approval as a Faculty Clinic Supervisor;

(iii) Assume full responsibility for the instruction and guidance of law students participating in the law school clinic's patent practice;

(iv) Assume full responsibility for all patent applications and legal services, including filings with the Office, produced by the clinic; and

(v) Comply with all additional criteria established by the OED Director.

(2) *Trademark Faculty Clinic Supervisor.* A Faculty Clinic Supervisor for a law school clinic's trademark practice must:

(i) Be an attorney as defined in § 11.1;

(ii) Demonstrate at least 3 years experience in prosecuting trademark applications before the Office within the 5 years immediately prior to the date of the request for approval as a Faculty Clinic Supervisor;

(iii) Assume full responsibility for the instruction, guidance, and supervision of law students participating in the law school clinic's trademark practice;

(iv) Assume full responsibility for all trademark applications and legal services, including filings with the Office, produced by the clinic; and

(v) Comply with all additional criteria established by the OED Director.

(3) A Faculty Clinic Supervisor under paragraph (c) of this section must submit a statement:

(i) Assuming responsibility for performing conflicts checks for each law student and client in the relevant clinic practice area;

(ii) Assuming responsibility for student instruction and work, including instructing, mentoring, overseeing, and supervising all participating law school students in the clinic's relevant practice area;

(iii) Assuming responsibility for content and timeliness of all applications and documents submitted to the Office through the relevant practice area of the clinic;

(iv) Assuming responsibility for all communications by clinic students to clinic clients in the relevant clinic practice area;

(v) Assuming responsibility for ensuring that there is no gap in representation of clinic clients in the relevant practice area during student turnover, school schedule variations, inter-semester transitions, or other disruptions;

(vi) Attesting to meeting the criteria of paragraph (c)(1) or (2) of this section based on relevant practice area of the clinic; and

(vii) Attesting to all other criteria as established by the OED Director.

(d) *Limited recognition for law students participating in the USPTO Law School Clinic Certification Program.* (1) The OED Director may grant limited recognition to practice before the Office in patent or trademark matters, or both, to law school students enrolled in a clinic of a law school that is participating in the USPTO Law School Clinic Certification Program upon submission and approval of an application by a law student to OED in accordance with criteria established by the OED Director.

(2) In order to be granted limited recognition to practice before the Office in patent matters under the USPTO Law School Clinic Certification Program, a law student must:

(i) Be enrolled in a law school that is an active participant in the USPTO Law School Clinic Certification Program;

(ii) Be enrolled in the patent practice area of a clinic of the participating law school;

(iii) Have successfully completed at least one year of law school or the equivalent;

(iv) Have read the USPTO Rules of Professional Conduct and the relevant rules of practice and procedure for patent matters;

(v) Be supervised by an approved Faculty Clinic Supervisor pursuant to paragraph (c)(1) of this section;

(vi) Be certified by the dean of the participating law school, or one authorized to act for the dean, as: Having completed the first year of law school or the equivalent, being in compliance with the law school's ethics code, and being of good moral character and reputation;

(vii) Neither ask for nor receive any fee or compensation of any kind for legal services from a clinic client on whose behalf service is rendered;

(viii) Have proved to the satisfaction of the OED Director that he or she possesses the scientific and technical qualifications necessary for him or her to render patent applicants valuable service; and

(ix) Comply with all additional criteria established by the OED Director.

(3) In order to be granted limited recognition to practice before the Office in trademark matters under the USPTO Law School Clinic Certification Program, a law student must:

(i) Be enrolled in a law school that is an active participant in the USPTO Law School Clinic Certification Program;

(ii) Be enrolled in the trademark practice area of a clinic of the participating law school;

(iii) Have successfully completed at least one year of law school or the equivalent;

(iv) Have read the USPTO Rules of Professional Conduct and the relevant USPTO rules of practice and procedure for trademark matters;

(v) Be supervised by an approved Faculty Clinic Supervisor pursuant to paragraph (c)(2) of this section;

(vi) Be certified by the dean of the participating law school, or one authorized to act for the dean, as: Having completed the first year of law school or the equivalent, being in compliance with the law school's ethics code, and being of good moral character and reputation;

(vii) Neither ask for nor receive any fee or compensation of any kind for legal services from a clinic client on whose behalf service is rendered; and

(viii) Comply with all additional criteria established by the OED Director.

(4) Students registered to practice before the Office in patent matters as a patent agent, or authorized to practice before the Office in trademark matters under § 11.14, must complete and submit a student application pursuant to paragraph (d)(1) of this section and meet the criteria of paragraph (d)(2) or (3) of this section, as applicable, in order to participate in the program.

■ 4. Add § 11.17 to read as follows:

§ 11.17 Requirements for participation in the USPTO Law School Clinic Certification Program.

(a) Each law school participating in the USPTO Law School Clinic Certification Program must provide its patent and/or trademark services on a *pro bono* basis.

(b) Each law school participating in the USPTO Law School Clinic Certification Program shall, on a semi-annual basis, provide OED with a report regarding its clinic activity during the reporting period, which shall include:

(1) The number of law students participating in each of the patent and trademark practice areas of the school's clinic;

(2) The number of faculty participating in each of the patent and trademark practice areas of the school's clinic;

(3) The number of persons to whom the school's clinic provided assistance in any given patent or trademark matter but with whom no practitioner-client relationship had formed;

(4) The number of client representations undertaken for each of the patent and trademark practice areas of the school's clinic;

(5) The identity and number of applications and responses filed in each of the patent and/or trademark practice areas of the school's clinic;

(6) The number of patents issued, or trademarks registered, to clients of the clinic; and

(7) All other information specified by the OED Director.

(c) *Inactivation of law schools participating in the USPTO Law School Certification Program.* (1) The OED Director may inactivate a patent and/or trademark practice area of a participating law school:

(i) If the participating law school does not have an approved Faculty Clinic Supervisor for the relevant practice area, as described in § 11.16(c);

(ii) If the participating law school does not meet each of the requirements and criteria for participation in the USPTO Law School Clinic Certification Program as set forth in § 11.16, this section, or as otherwise established by the OED Director; or

(iii) For other good cause as determined by the OED Director.

(2) In the event that a practice area of a participating school is inactivated, the participating law school students must:

(i) Immediately cease all student practice before the Office in the relevant practice area and notify each client of such; and

(ii) Disassociate themselves from all client matters relating to practice before the Office in the relevant practice area, including complying with Office and State rules for withdrawal from representation.

(3) A patent or trademark practice area of a law school clinic that has been inactivated may be restored to active status, upon application to and approval by the OED Director.

(d) *Removal of law schools participating in the USPTO Law School Clinic Certification Program.* (1) The OED Director may remove a patent and/or trademark practice area of the clinic of a law school participating in the USPTO Law School Clinic Certification Program:

(i) Upon request from the law school;

(ii) If the participating law school does not meet each of the requirements and criteria for participation in the USPTO Law School Clinic Certification Program as set forth in § 11.16, this section, or as otherwise established by the OED Director; or

(iii) For other good cause as determined by the OED Director.

(2) In the event that a practice area of a participating school is removed by the OED Director, the participating law school students must:

(i) Immediately cease all student practice before the Office in the relevant

practice area and notify each client of such; and

(ii) Disassociate themselves from all client matters relating to practice before the Office in the relevant practice area, including complying with Office and State rules for withdrawal from representation.

(3) A school that has been removed from participation in the USPTO Law School Clinic Certification Program under this section may reapply to the program in compliance with § 11.16.

Dated: May 23, 2016.

Michelle K. Lee,

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

[FR Doc. 2016–12498 Filed 5–26–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2016–0002; Internal Agency Docket No. FEMA–8433]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at *http://www.fema.gov/fema/csb.shtm.*

DATES: The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact Patricia Suber, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4149.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register**.

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR,