National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined 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 less than thirty minutes that will prohibit entry into a designated area. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

*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 165**

Harbors, Marine safety, Navigation (water), Reporting and record keeping 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:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–0690 to read as follows:

**§ 165.T09–0690 Yankee Air Museum's Fundraiser Air Demonstration, Lake St. Clair, Grosse Pointe Farms, MI.**

(a) *Location.* A safety zone is established to include all U.S. navigable waters of Lake St. Clair within the following corner points: Northeast corner, 42°24.670′ N, 082°51.594′ W, Northwest corner 42°24.671′ N, 082°51.368′ W, Southeast corner 42°24.034′ N, 082°51.857′ W, Southwest corner 42°24.023′ N, 082°51.626′ W (NAD 83).

(b) *Enforcement period.* The regulated area described in paragraph (a) will be enforced 8 p.m. through 8:30 p.m. on July 18, 2018.

(c) *Regulations.* (1) No vessel or person may enter, transit through, or anchor within the safety zone unless authorized by the Captain of the Port Detroit (COTP), or his on-scene representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or his on-scene representative.

(3) The ''on-scene representative'' of COTP is any Coast Guard commissioned, warrant or petty officer or a Federal, State, or local law enforcement officer designated by or assisting the Captain of the Port Detroit to act on his behalf.

(4) Vessel operators shall contact the COTP or his on-scene representative to obtain permission to enter or operate within the safety zone. The COTP or his on-scene representative may be contacted via VHF Channel 16 or at 313–568–9464. Vessel operators given permission to enter or operate in the regulated area must comply with all directions given to them by the COTP or his on-scene representative.

Dated: July 11, 2018.

**Kevin D. Floyd,**

*Commander, U.S. Coast Guard, Acting Captain of the Port Detroit.*

[FR Doc. 2018–15182 Filed 7–16–18; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

### 37 CFR Part 2

**[Docket No. PTO–T–2017–0032]**

**RIN 0651–AD23**

## Removal of Rules Governing Trademark Interferences

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

**ACTION:** Final rule.

**SUMMARY:** The United States Patent and Trademark Office (USPTO or Office) amends the Rules of Practice in Trademark Cases to remove the rules governing trademark interferences. This rule arises out of the USPTO's work during FY 2017 to identify and propose regulations for removal, modification, and streamlining because they are outdated, unnecessary, ineffective, costly, or unduly burdensome on the agency or the private sector. The revisions put into effect the work the USPTO has done, in part through its participation in the Regulatory Reform Task Force (Task Force) established by the Department of Commerce (Department or Commerce) pursuant to Executive Order 13777, to review and identify regulations that are candidates for removal.

**DATES:** This rule is effective on August 16, 2018.

**FOR FURTHER INFORMATION CONTACT:** Catherine Cain, Office of the Deputy Commissioner for Trademark Examination Policy, by email at *TMFRNotices@uspto.gov,* or by telephone at (571) 272–8946.

**SUPPLEMENTARY INFORMATION:**

### I. Background

In accordance with Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' the Department established a Task Force, comprising, among others, agency officials from the National Oceanic and Atmospheric Administration, the Bureau of Industry and Security, and the USPTO, and charged the Task Force with evaluating existing regulations and identifying those that should be repealed, replaced, or modified because they are outdated, unnecessary, ineffective, costly, or unduly burdensome to both government and private-sector operations.

To support its regulatory reform efforts on the Task Force, the USPTO assembled a Working Group on Regulatory Reform (Working Group), consisting of subject-matter experts from each of the business units that implement the USPTO's regulations, to consider, review, and recommend ways that the regulations could be improved, revised, and streamlined. In considering the revisions, the USPTO, through its Working Group, incorporated into its analyses all presidential directives relating to regulatory reform. The Working Group reviewed existing regulations, both discretionary rules and those required by statute or judicial order. The USPTO also solicited comments from stakeholders through a web page established to provide information on the USPTO's regulatory reform efforts and through the Department's **Federal Register** Notice titled ''Impact of Federal Regulations on Domestic Manufacturing'' (82 FR 12786, Mar. 7, 2017), which addressed the impact of regulatory burdens on domestic manufacturing. These efforts led to the development of candidate regulations for removal based on the USPTO's assessment that these regulations were not needed and/or that elimination could improve the USPTO's body of regulations. This rule removes certain trademark-related regulations. Other rules removing regulations on other subject areas may be published separately.

**II. Regulations Being Removed**

This rule removes the regulations concerning trademark interferences codified at 37 CFR 2.91–2.93, 2.96, and 2.98. The rule also revises the authority citation for part 2 and revises the undesignated center heading ''INTERFERENCES AND CONCURRENT USE PROCEEDINGS'' to read ''CONCURRENT USE PROCEEDINGS'' to more accurately reflect the final regulations. A trademark interference is a proceeding in which the Trademark Trial and Appeal Board (Board) determines which, if any, of the owners of conflicting applications (or of one or more applications and one or more conflicting registrations) is entitled to registration. 15 U.S.C. 1066. A trademark interference can be declared only upon petition to the Director of the USPTO (Director). However, the Director will grant such a petition only if the petitioner can show extraordinary circumstances that would result in a party being unduly prejudiced in the absence of an interference. 37 CFR 2.91(a). The availability of an opposition or cancellation proceeding to determine rights to registration ordinarily precludes the possibility of such undue prejudice to a party. *Id.* Thus, a petitioner must show that there is some extraordinary circumstance that would make the remedy of opposition or cancellation inadequate or prejudicial to the party's rights.

Trademark interferences have generally been limited to situations where a party would otherwise be required to engage in a series of opposition or cancellation proceedings involving substantially the same issues. Trademark Manual of Examining Procedure § 1507. The promulgation of the interference regulations suggests that at that time, the Office contemplated such situations arising with enough frequency to merit particular regulations governing interference proceedings. However, the rarity of interference proceedings over an extended period of time indicates that the regulations are unnecessary. To the extent that the USPTO's paper petition records are searchable, the USPTO reviewed them and its electronic records of petitions and found that since 1983, the USPTO has received an average of approximately one petition for a trademark interference per year, and almost all of them have been denied except for one petition that was granted in 1985 (32 years ago). The USPTO has been unable to identify a situation since that time in which the Director has granted a petition to declare a trademark interference. Given the extremely low rate of filing over this long period of time, and because parties would still retain an avenue for seeking a declaration of interference through the general petition regulations, the USPTO considers the trademark interference regulations unnecessary.

Section 16 of the Trademark Act, 15 U.S.C. 1066, states that the Director may declare an interference ''[u]pon petition showing extraordinary circumstances.'' Although eliminating §§ 2.91–2.93, 2.96, and 2.98 removes the regulations regarding the requirements for declaring a trademark interference, the statutory authority will remain. On the rare occasion that the Office receives a request that the Director declare a trademark interference, it is currently submitted as a petition under 37 CFR 2.146, a more general regulation on petitions. In the unlikely event that a need for an interference arose, it is still possible for a party to seek institution of a trademark interference by petitioning the Director under 37 CFR 2.146(a)(4), whereby a petitioner may seek relief in any case not specifically defined and provided for by Part 2 of Title 37. Thus, even after removal of these rules, parties retain an avenue for seeking a declaration of interference.

Removal of the identified trademark interference regulations in this rule achieves the objective of making the USPTO regulations more effective and more streamlined, while enabling the USPTO to fulfill its mission goals. The USPTO's economic analysis shows that while the removal of these regulations is not expected to substantially reduce the burden on the impacted community, the regulations are nonetheless being eliminated because they are ''outdated, unnecessary, or ineffective'' regulations encompassed by the directives in Executive Order 13777.

**III. Proposed Rule: Comments and Responses**

The USPTO published a proposed rule on October 18, 2017 at 82 FR 48469, soliciting comments on the proposed amendments. In response, the USPTO received three comments relevant to the proposed rule. The commenters generally supported the proposed amendments as meeting the stated objectives. The USPTO appreciates the positive input, and these comments require no response.

One commenter noted that the removal of the trademark interference rules will not relieve any burden, as a party can petition the Director to declare an interference with or without these rules, and suggested ''that there should be real amendments which actually mitigate regulatory burden to incent entrepreneurship and market growth.'' As noted above, removal of the identified regulations achieves the objective of making the USPTO regulations more effective and more streamlined, while enabling the USPTO to fulfill its mission goals. Moreover, although removal of these regulations is not expected to substantially reduce the burden on the impacted community, they are being eliminated because they are ''outdated, unnecessary, or ineffective'' regulations that are encompassed by the directives in Executive Order 13777. The Office sought public suggestions on regulatory changes to reduce burdens in order to benefit from the public's input.

All comments are posted on the USPTO's website at *https://www.uspto.gov/trademark/trademark-updates-and-announcements/comments-proposed-rulemaking-related-removal-rules.*

**IV. Discussion of Rules Changes**

The USPTO revises the authority citation for part 2 to add ''Sec. 2.99 also issued under secs. 16, 17, 60 Stat. 434; 15 U.S.C. 1066, 1067.'' The USPTO revises the undesignated center heading ''INTERFERENCES AND CONCURRENT USE PROCEEDINGS'' to read ''CONCURRENT USE PROCEEDINGS'' and removes the authority citation immediately following that heading. The USPTO removes and reserves §§ 2.91–2.93, 2.96, and 2.98.

*Rulemaking Considerations*

*A. Administrative Procedure Act:* The changes in this 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.).

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 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))). However, the Office chose to seek public comment before implementing the rule to benefit from the public's input.

*B. Regulatory Flexibility Act:* For the reasons set forth herein, 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 this rule will not have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 605(b).

This rule removes the regulations addressing trademark interferences codified at 37 CFR 2.91–2.93, 2.96, and 2.98. In trademark interferences, the Board determines which, if any, of the owners of conflicting applications (or of one or more applications and one or more conflicting registrations) is entitled to registration. 15 U.S.C. 1066. Where searchable, the USPTO reviewed its paper and electronic records of petitions and found that since 1983, USPTO has received an average of approximately 1 such petition a year, and almost all of them have been denied except for one petition that was granted in 1985 (32 years ago). Because these regulations have rarely been invoked in the last 32 years and no trademark interference proceedings occurred during that time, the USPTO considers these regulations unnecessary and has determined to remove them. Removing the trademark interference regulations in this rule achieves the objective of making the USPTO regulations more effective and more streamlined, while enabling the USPTO to fulfill its mission goals. The removal of these regulations is not expected to substantively impact parties as, in the unlikely event that a need for a trademark interference arose, a party would be able to petition the Director under 37 CFR 2.146(a)(4) for institution of an interference. For these reasons, 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 Executive Order 12866.

*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 13771 (Reducing Regulation and Controlling Regulatory Costs):* This rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

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

*G. 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).

*H. 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).

*I. 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).

*J. 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).

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

*L. 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 USPTO will submit a report containing the final rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the Government Accountability Office. The changes in this notice 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 notice is not expected to result in a ''major rule'' as defined in 5 U.S.C. 804(2).

*M. Unfunded Mandates Reform Act of 1995:* The changes set forth in this notice 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.*

*N. National Environmental Policy Act:* 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.*

*O. 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 that involve the use of technical standards.

*P. Paperwork Reduction Act:* 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 *et seq.*). The collection of information involved in this rule has been reviewed and previously approved by OMB under control number 0651–0054.

Notwithstanding any other provision of law, no person is required to respond to 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.

**List of Subjects for 37 CFR Part 2**

Administrative practice and procedure, Trademarks.

For the reasons stated in the preamble and under the authority contained in 15 U.S.C. 1123 and 35 U.S.C. 2, as amended, the Office amends part 2 of title 37 as follows:

## PART 2—RULES OF PRACTICE IN TRADEMARK CASES

■ 1. The authority citation for part 2 is revised to read as follows:

**Authority:** 15 U.S.C. 1123 and 35 U.S.C. 2 unless otherwise noted. Sec. 2.99 also issued under secs. 16, 17, 60 Stat. 434; 15 U.S.C. 1066, 1067.

■ 2. Revise the undesignated center heading ''INTERFERENCES AND CONCURRENT USE PROCEEDINGS'' above § 2.91 to read ''CONCURRENT USE PROCEEDINGS'' and remove the authority citation immediately following that heading.

**§ 2.91 [Reserved and Reserved]**

■ 3. Remove and reserve § 2.91.

**§ 2.92 [Reserved and Reserved]**

■ 4. Remove and reserve § 2.92.

**§ 2.93 [Reserved and Reserved]**

■ 5. Remove and reserve § 2.93.

**§ 2.96 [Reserved and Reserved]**

■ 6. Remove and reserve § 2.96.

**§ 2.98 [Reserved and Reserved]**

■ 7. Remove and reserve § 2.98.

Dated: July 10, 2018.

**Andrei Iancu,**

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

[FR Doc. 2018–15163 Filed 7–16–18; 8:45 am]

**BILLING CODE 3510–16–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R04–OAR–2017–0740; FRL–9980–81—Region 4]**

### Air Plan Approval; Tennessee; Revisions to Stage I and II Vapor Recovery Requirements

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Tennessee through the Tennessee Department of Environment and Conservation (TDEC) on November 11, 2017, for the purpose of establishing minor changes to the gasoline dispensing regulations, including adding clarifying language and effective and compliance dates and specifying the counties subject to the reporting requirement rule. EPA has determined that Tennessee's November 11, 2017, SIP revision is approvable because it is consistent with the Clean Air Act (CAA or Act) and with EPA's regulations and guidance.

**DATES:** This rule is effective August 16, 2018.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2017–0740. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information 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 either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Kelly Sheckler, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9222. Ms. Sheckler can also be reached via electronic mail at sheckler.kelly@*epa.govsheckler.kelly@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On November 11, 2017, TDEC submitted a SIP revision to EPA seeking to add clarity for the benefit of the regulated community with gasoline dispensing facilities. Tennessee is making a minor change to its rules regarding gasoline dispensing facilities (GDF) at subparagraph (1)(d) of rule 1200–03–18–.24—''For any GDF otherwise exempt from subparagraph (c) of this paragraph based on monthly throughput, if the GDF *ever* exceeds the applicability threshold specified in subparagraph (c) of this paragraph, it shall be subject to the requirements of subparagraph (c) of this paragraph *and shall remain subject to those requirements* even if its throughput later falls below the threshold. The owner or operator shall inform the Technical Secretary within 30 days following the exceedance.'' The revision clarifies the meaning and application of subparagraph (1)(d) of rule 1200–03–18–.24 by adding the words ''ever'' and ''and shall remain subject to those requirements'' italicized above.

In addition, this revision replaces the phrase ''the effective date of this rule'' with the actual effective date of the rule (July 14, 2016) and replaces ''three years after effective date'' with the actual date of the rule for compliance (August 14, 2019). Finally, this revision adds the list of counties (Davidson, Rutherford, Shelby, Sumner, Knox, Anderson, Williamson and Wilson) that need to report to their permitting authority (if they emit more than 25 tons in a calendar year) and the cross reference to the existing reporting requirement in rule 1200–03–18–.02 to simplify the issuances of notices of authorization under pending permit-by-rule provisions.