

(a) of this section is prohibited unless authorized by the Captain of the Port Marine Safety Unit Port Arthur (COTP) or a designated representative. They may be contacted on VHF-FM channel 13 or 16, or by phone at 337-912-0073.

(2) The COTP or a designated representative may forbid and control the movement of all vessels in the regulated area. When hailed or signaled by an official patrol vessel, a vessel shall come to an immediate stop and comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(3) The COTP or a designated representative may terminate the event or the operation of any vessel at any time it is deemed necessary for the protection of life or property.

(4) The COTP or a designated representative will terminate enforcement of the special local regulations at the conclusion of the event.

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

Dated: December 20, 2022.

**M.A. Wike,**

*Captain, U.S. Coast Guard, Captain of the Port Marine Safety Unit Port Arthur.*

[FR Doc. 2022-28280 Filed 12-28-22; 8:45 am]

BILLING CODE 9110-04-P

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

#### 37 CFR Part 1

[Docket No.: PTO-P-2018-0031]

RIN 0651-AD31

#### Setting and Adjusting Patent Fees During Fiscal Year 2020

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

**ACTION:** Final rule; delay of effective date and final rule.

**SUMMARY:** The United States Patent and Trademark Office (USPTO or Office) published a final rule in the **Federal Register** on August 3, 2020, that includes a fee for patent applications that are not filed in DOCX format, except for design, plant, or provisional

applications. This new fee was scheduled to become effective on January 1, 2023. Through this final rule, the USPTO is delaying the effective date of this fee until April 3, 2023.

**DATES:** This final rule is effective April 3, 2023. As of December 29, 2022, the effective date of amendatory instruction 2.i. (affecting 37 CFR 1.16(u)), published at 85 FR 46932 on August 3, 2020, and delayed at 86 FR 66192, November 22, 2021, is further delayed until April 3, 2023. The change to 37 CFR 1.16(u) in amendatory instruction 2.i., published at 85 FR 46932 on August 3, 2020, is applicable only to nonprovisional utility applications filed under 35 U.S.C. 111 on or after April 3, 2023.

**FOR FURTHER INFORMATION CONTACT:**

Mark O. Polutta, Senior Legal Advisor, Office of Patent Legal Administration, at 571-272-7709; or Eugenia A. Jones, Senior Legal Advisor, Office of Patent Legal Administration, at 571-272-7727. You can also send inquiries by email to [patentpractice@uspto.gov](mailto:patentpractice@uspto.gov).

**SUPPLEMENTARY INFORMATION:** On August 3, 2020, the USPTO published a final rule in the **Federal Register** that included a new fee set forth in § 1.16(u) with an effective date of January 1, 2022. *See* Setting and Adjusting Patent Fees in Fiscal Year 2020, 85 FR 46932. As specified in § 1.16(u), the fee is due for any application filed under 35 U.S.C. 111 for an original patent—except design, plant, or provisional applications—where the specification, claims, and/or abstract do not conform to the USPTO requirements for submission in DOCX format. Therefore, the fee is due for nonprovisional utility applications filed under 35 U.S.C. 111, including continuing applications, that are not filed in DOCX format.

The USPTO conducted two pilot programs for filing applications in DOCX format. The eMod Text Pilot Program was conducted between August 2016 and September 2017. The USPTO then expanded the ability to file patent applications in DOCX format in EFS-Web to all users in September 2017. In 2018, the USPTO launched Patent Center and conducted the Patent Center Text Pilot Program from June 2018 through April 2020. All applicants have been able to file applications in DOCX format in Patent Center since April 2020. Information about Patent Center is available at [www.uspto.gov/patents/apply/patent-center](http://www.uspto.gov/patents/apply/patent-center). In addition, the USPTO has held and continues to hold many discussions with stakeholders to ensure a fair and reasonable transition to the DOCX format.

The USPTO is delaying the effective date of the fee set forth in § 1.16(u) until

April 3, 2023. Although the USPTO published a notice on December 20, 2022 (87 FR 77812) indicating that the fee set forth in § 1.16(u) was expected to go into effect on January 1, 2023, the USPTO is now further delaying the effective date for the fee to give applicants more time to adjust to filing patent applications in DOCX format.

Applicants are strongly encouraged to begin filing patent applications in DOCX format before the new effective date of the fee. Applicants are also reminded that they can file test submissions through Patent Center training mode to practice filing in DOCX. Furthermore, applicants who have not yet taken advantage of the DOCX training sessions hosted by the USPTO are strongly encouraged to do so. Information on filing application documents in DOCX and a link to the DOCX training sessions are available at [www.uspto.gov/patents/docx](http://www.uspto.gov/patents/docx).

#### Rulemaking Requirements

*A. Administrative Procedure Act:* This final rule revises the effective date of a final rule published on August 3, 2020, implementing a non-DOCX filing surcharge fee, and is a rule of agency practice and procedure pursuant to 5 U.S.C. 553(b)(A). *See JEM Broad. Co. v. F.C.C.*, 22 F.3d 32 (D.C. Cir. 1994) (“[T]he ‘critical feature’ of the procedural exception [in 5 U.S.C. 553(b)(A)] ‘is that it covers agency actions that do not themselves alter the rights or interests of parties, although [they] may alter the manner in which the parties present themselves or their viewpoints to the agency.’” (quoting *Batterton v. Marshall*, 648 F.2d 694, 707 (D.C. Cir. 1980))); *see also Bachow Commc’ns Inc. v. F.C.C.*, 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 are not required pursuant to 5 U.S.C. 553(b) or (c) (or any other law). *See 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 Director of the USPTO, pursuant to authority at 5 U.S.C. 553(b)(B), finds good cause to adopt the change to the effective date of § 1.16(u)

in this final rule without prior notice and an opportunity for public comment, as such procedures would be impracticable and contrary to the public interest. The change to the effective date will provide the public an opportunity to more fully comprehend the nature of, and prepare to comply with, the DOCX format before the new fee is effective. Delay of this provision to provide prior notice and comment procedures is also impracticable because it would allow § 1.16(u) to go into effect before the public is ready for the DOCX format. In addition, the Director finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness of this rule. Immediate implementation of the delay in effective date of the fee is in the public interest because it will provide the public an opportunity to more fully comprehend the nature of, and prepare to comply with, the DOCX format before the new fee in section 1.16(u) is effective.

**B. Regulatory Flexibility Act:** As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 or any other law, neither a regulatory flexibility analysis nor a certification under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is required. See 5 U.S.C. 603.

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

**D. Paperwork Reduction Act:** The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the USPTO consider the impact of paperwork and other information collection burdens imposed on the public. The USPTO has determined that there are no new requirements for information collection associated with this final rule.

#### List of Subjects for 37 CFR Part 1

Administrative practice and procedure, Biologics, Courts, Freedom of information, Inventions and patents, Reporting and recordkeeping requirements, Small businesses.

For the reasons stated in the preamble, the Office amends 37 CFR part 1 as follows:

#### PART 1—RULES OF PRACTICE IN PATENT CASES

■ 1. The authority citation for 37 CFR part 1 continues to read as follows:

**Authority:** 35 U.S.C. 2(b)(2), unless otherwise noted.

#### § 1.16 [Amended]

■ 2. In § 1.16, amend paragraph (u) introductory text by removing “January

1, 2023” and adding “April 3, 2023” in its place.

**Katherine K. Vidal,**

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

[FR Doc. 2022–28436 Filed 12–28–22; 8:45 am]

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 62

[EPA–R06–OAR–2022–0546; FRL–10189–02–R6]

#### Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Arkansas; Control of Emissions From Existing Municipal Solid Waste Landfills

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

**ACTION:** Final rule.

**SUMMARY:** Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is approving the CAA section 111(d) state plan submitted by the State of Arkansas for sources subject to the Municipal Solid Waste (MSW) Landfills Emission Guidelines (EG). The Arkansas MSW landfills plan was submitted to fulfill the state’s obligations under CAA section 111(d) to implement and enforce the requirements under the MSW Landfills EG. The EPA is approving the state plan and amending the agency regulations in accordance with the requirements of the CAA.

**DATES:** This rule is effective on January 30, 2023. The incorporation by reference of certain material listed in the rule is approved by the Director of the Federal Register January 30, 2023.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2022–0546. 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 or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet. Publicly available docket materials are available electronically through <https://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Karolina Ruan Lei, EPA Region 6 Office, Air and Radiation Division—State Planning and Implementation Branch, (214) 665–7346, [ruan-lei.karolina@epa.gov](mailto:ruan-lei.karolina@epa.gov)

[epa.gov](https://www.epa.gov). Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office may be closed to the public to reduce the risk of transmitting COVID–19. Please call or email the contact listed above if you need alternative access to material indexed but not provided in the docket.

#### SUPPLEMENTARY INFORMATION:

Throughout this document “we,” “us,” and “our” means the EPA.

#### I. Background

The background for this action is discussed in detail in our September 30, 2022 proposal (87 FR 59376) and accompanying Technical Support Document (TSD). In that document we proposed to approve the Arkansas MSW landfills plan submitted by the Arkansas Department of Energy and Environment, Division of Environmental Quality (ADEQ) in accordance with the requirements of section 111(d) of the CAA and to amend 40 CFR part 62, subpart E, to codify EPA’s approval. We proposed to find that the Arkansas MSW landfills plan, submitted by ADEQ on June 20, 2022, and supplemented on August 24, 2022, and August 31, 2022, is at least as protective as the Federal requirements provided under the MSW landfills EG, codified at 40 CFR part 60, subpart Cf.

#### II. Response to Comments

We received one comment regarding our proposal. The comment and response to the comment are provided below.

**Comment:** This is part of an assignment to practice using the [Regulations.gov](https://www.regulations.gov) website. I chose to comment on this proposed rule because I find environmental justice to be highly important. As stated in the proposed rule, the emissions from landfill waste can be hazardous and detrimental to the health of the community. For this reason, the limiting of these emissions by regulations described in the rule is of the utmost importance. Furthermore, because of the hazardous nature of these emissions, it is crucial that the locations of the landfills are properly considered, so as not to expose a densely populated area, or an area populated largely by minority groups. The figures presented in Table 1 are shocking for many reasons. The relatively high percentiles that most of the landfills noted fall into demonstrate a need for reduction, for the safety of the communities. Furthermore, the discrepancies between different areas’ landfills also raises a concern for the health of each individual community, and demonstrates a need for a more