

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 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 Directive 023–01, Rev. 1, associated implementing instructions and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have 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 that will prohibit persons and vessels from entering, transiting through, anchoring in, or remaining within a limited area on the navigable waters of the Atlantic Ocean located within the line connecting points beginning at 31°59′43.62″ N, 080°49′58.74″ W, thence to 31°58′56.66″ N, 080°50′16.73″ W, thence to 31°59′5.73″ N, 080°50′49.50″ W, thence to 31°59′52.64″ N, 080°50′31.52″ W, and back to the beginning point, during Air National Guard's aerial demonstration of the F–22A Raptor aircraft lasting three hours. 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. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

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 recordkeeping requirements, Security measures, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

■ 2. Add § 165.T07–0709 to read as follows:

§ 165.T07–0709 Safety Zone; Atlantic Ocean, Tybee Island, GA.

(a) *Location.* The following regulated area is a safety zone: All waters of the Atlantic Ocean, located within the line connecting points beginning at 31°59′43.62″ N, 080°49′58.74″ W, thence to 31°58′56.66″ N, 080°50′16.73″ W, thence to 31°59′5.73″ N, 080°50′49.50″ W, thence to 31°59′52.64″ N, 080°50′31.52″ W, and back to the beginning point. All coordinates are World Geodetic System 1984 (WGS 84).

(b) *Definition.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Savannah (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area described in paragraph (a) of this section unless authorized by the COTP or a designated representative.

(2) Persons or vessels desiring to enter, transit through, anchor in, or remain within the safety zone may contact COTP by telephone at 912–247–0073, or a designated representative via VHF radio on channel 16, to request authorization. If authorization is granted, all persons and vessels receiving such authorization must comply with the instructions of the COTP Savannah or a designated representative.

(3) The Coast Guard will provide notice of the regulated area by Broadcast Notice to Mariners via VHF–FM channel 16, and/or by on-scene designated representatives.

(d) *Enforcement period.* This section will be enforced from 10 a.m. to 1 p.m. on September 13, 2023.

Dated: September 1, 2023.

Nathaniel L. Robinson,
Commander, U.S. Coast Guard, Captain of
the Port Savannah.

[FR Doc. 2023–19559 Filed 9–11–23; 8:45 am]

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DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

37 CFR Parts 2 and 7

[Docket No. PTO–T–2021–0008]

RIN 0651–AD71

Changes To Implement Provisions of the Trademark Modernization Act of 2020; Delay of Effective Date

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

ACTION: Final rule; delay of effective date.

SUMMARY: On November 17, 2021, the United States Patent and Trademark Office (USPTO) published in the **Federal Register** a final rule amending its regulations to implement provisions of the Trademark Modernization Act of 2020 (TMA) concerning new response periods and extensions in the examination of post-registration filings. Those provisions had an effective date of December 1, 2022. On October 13, 2022, the provisions regarding responses and extensions in the examination of post-registration filings were subsequently delayed until October 7, 2023. This notice further delays the provisions that address the post-registration provisions until the spring or early summer of 2024.

DATES: As of September 12, 2023, the effective date for amendatory instructions 29, 30, 31, 33, 34, 37, 38, and 39 amending 37 CFR 2.163, 2.165, 2.176, 2.184, 2.186, 7.6, 7.39, and 7.40, respectively, in the final rule published at 86 FR 64300 on November 17, 2021, delayed at 87 FR 62032 on October 13, 2022, is delayed indefinitely. Also, as of September 12, 2023, the effective date of the amendment to 37 CFR 2.6 in the final rule published at 87 FR 62032 on October 13, 2022, is delayed indefinitely. The USPTO will publish a forthcoming **Federal Register** document announcing a new effective date.

FOR FURTHER INFORMATION CONTACT: Catherine Cain, Office of the Deputy Commissioner for Trademark Examination Policy, at 571–272–8946. You can also send inquiries to TMFRNotices@uspto.gov.

SUPPLEMENTARY INFORMATION: On November 17, 2021, the USPTO published in the **Federal Register** a final rule amending the Rules of Practice in Trademark Cases to implement provisions of the TMA. See *Changes To Implement Provisions of the Trademark Modernization Act of 2020* (86 FR

64300). That final rule was published under Regulatory Identification Number (RIN) 0651-AD55. As part of that final rule, the USPTO set a period of three months for responses to post-registration office actions and provided the option to request a single three-month extension of the deadline, subject to the payment of a fee. The final rule stated that the post-registration changes would go into effect on December 1, 2022.

On October 13, 2022, the USPTO published in the **Federal Register** a final rule delaying the effective date for responses and extensions in the examination of post-registration filings from December 1, 2022, until October 7, 2023. *See* Changes To Implement Provisions of the Trademark Modernization Act of 2020; Delay of Effective Date and Correction (87 FR 62032).

Under this final rule, the USPTO is further delaying the provisions that address post-registration responses and extensions. The USPTO anticipates that these provisions will go into effect sometime in the spring or early summer of 2024.

The USPTO is currently upgrading its internal and public databases, search system, and internal examination systems. These major updates will provide far-reaching efficiencies for both customers and staff. The implementation of the regulatory changes to post-registration responses and extensions cannot be completed until the migration to the new systems is complete. The USPTO anticipates that this will occur in the spring or early summer of 2024. The delay will also provide the public with additional time to prepare for the new response periods. The USPTO will publish a final rule in the **Federal Register** providing the new effective date of the provisions addressing post-registration responses and extensions once it has been determined.

In the final rule published at 86 FR 64300, the cross-reference in 37 CFR 7.40(b) to “§ 7.39(b) and (c)” is incorrect. The reference should have been to “§ 7.39(a) and (b).” When the USPTO publishes a final rule providing the new effective date of the provisions addressing post-registration responses and extensions, that section will also be corrected.

Rulemaking Requirements

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 an 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 “interpretive rules, general statements of policy, or rules of agency organization, procedure, or practice” (quoting 5 U.S.C. 553(b)(A))).

Moreover, the Under Secretary of Commerce for Intellectual Property and Director of the USPTO, pursuant to the authority at 5 U.S.C. 553(b)(B), finds good cause to adopt the change to the effective date without prior notice and an opportunity for public comment, as such procedures would be impracticable and contrary to the public interest. The USPTO is currently upgrading its internal and public databases, search system, and internal examination systems. These major updates will provide far-reaching efficiencies for both customers and staff. The implementation of the regulatory changes to post-registration responses and extensions cannot be completed until the migration to the new systems is complete. The USPTO anticipates that this will occur in the spring or early summer of 2024. The delay will also provide the public with additional time to prepare for the new response periods. Delay of this provision to provide prior notice and comment procedures is also impracticable because it would allow the provisions to go into effect before the agency is ready to implement the regulatory changes regarding post-registration responses and extensions.

The Director also 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 the effective date is in the public interest because it will provide the agency the ability to effectively manage and utilize the resources needed to complete all these initiatives. The delay will also provide the public with additional time to prepare for the new response periods. Delay of this rule to provide for the 30-day delay in effectiveness is impracticable because it would allow the provisions to go into effect before the agency is ready to implement the regulatory changes regarding post-registration responses and extensions.

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

Katherine K. Vidal,

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

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2020-0065; FRL-8786-01-OCSPP]

Fluazaindolizine; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of fluazaindolizine in or on multiple commodities that are identified and discussed later in this document. E.I. du Pont de Nemours & Company (“DuPont”, now Corteva) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective September 12, 2023. Objections and requests for hearings must be received on or before November 13, 2023, and must be filed in accordance with the instructions provided in 40 CFR part