

**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:** Notice of proposed rulemaking.

**SUMMARY:** This rulemaking is required by a Public Law enacted on December 16, 2014. This law requires the United States Patent and Trademark Office (“Office” or “USPTO”) Director to establish regulations and procedures for application to and participation in the USPTO Law School Clinic Certification Program. This law removed the “pilot” status of the USPTO’s existing 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 a 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. In this way, these student practitioners gain valuable experience drafting, filing, and prosecuting patent and trademark applications that would otherwise be unavailable to students while in law school. 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. The proposed rules incorporate the requirements and procedures developed and implemented during the pilot phase of the program.

**DATES:** To be ensured of consideration, written comments must be received on or before February 16, 2016.

**ADDRESSES:** Comments should be sent by electronic mail message over the Internet addressed to: [LSCCPCComments@uspto.gov](mailto:LSCCPCComments@uspto.gov). Comments may also be submitted by mail addressed to: Mail Stop OED—Law School Rules, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313-1450, marked to the attention of William R. Covey, Deputy General Counsel for Enrollment and Discipline and Director of the Office of Enrollment and Discipline.

Comments may also be sent by electronic mail message over the

Internet via the Federal eRulemaking Portal. See the Federal eRulemaking Portal Web site (<http://www.regulations.gov>) for additional instructions on providing comments via the Federal eRulemaking Portal.

Although comments may be submitted by postal mail, the Office prefers to receive comments by electronic mail message over the Internet because sharing comments with the public is more easily accomplished. Electronic comments are preferred to be submitted in plain text, but also may be submitted in ADOBE® portable document format or MICROSOFT WORD® format. Comments not submitted electronically should be submitted on paper in a format that facilitates convenient digital scanning into ADOBE® portable document format.

Comments will be made available for public inspection at the Office of Enrollment and Discipline, located on the 8th Floor of the Madison West Building, 600 Dulany Street, Alexandria, Virginia. Comments also will be available for viewing via the Office’s Internet Web site (<http://www.uspto.gov>). Because comments will be made available for public inspection, information that the submitter does not desire to make public, such as an address or phone number, should not be included in the comments.

**FOR FURTHER INFORMATION CONTACT:** William R. Covey, Deputy General Counsel for Enrollment and Discipline and Director of the Office of Enrollment and Discipline, by telephone at 571-272-4097.

**SUPPLEMENTARY INFORMATION:****Executive Summary***A. Purpose of the Regulatory Action*

The proposed changes to part 11 aim to comply with the rulemaking requirement imposed by Public Law 113-227 (Dec. 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. This law removed the “pilot” status of the USPTO’s 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 that 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 a 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 students while in law school. The program also facilitates the provision of pro bono services to trademark and patent applicants that lack the financial resources to pay for legal representation. The proposed rules incorporate the requirements and procedures developed and implemented during the pilot phase of the program.

*B. Summary of the Major Provisions of the Regulatory Action in Question*

This NPRM proposes rules in 37 CFR 11.16 and 11.17 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.

*Discussion of Specific Rules*

The USPTO proposes to amend § 11.1 to clarify the definition of “attorney” or “lawyer” to reflect the current practice of requiring attorneys to be active members, in good standing, of the highest court of any State, and otherwise eligible to practice law. 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.

The USPTO also proposes to amend the term “practitioner” to specifically include those students allowed to participate in the USPTO Law School Clinic Certification Program. The mechanism by which such students are allowed to participate is through a grant of limited recognition. Once granted limited recognition, such students are deemed practitioners 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.

The USPTO proposes to add §§ 11.16 and 11.17, currently reserved, to establish the regulatory framework for the Law School Clinic Certification Program.

Section 11.16 would establish the 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, will be published in a bulletin on the Office of Enrollment and Discipline's law school clinic Web page.

*Section 11.16(a)* would describe the purpose of the program.

*Section 11.16(b)* would establish rules regarding applying for, and renewing, admission to the program. Law schools enrolled in the program on the effective date of these rules would be grandfathered into the program and would not be required to submit a new application. Law schools no longer participating in the program on the effective date, however, would be required to reapply for admission. Although not required to reapply for admission, participating law schools seeking to add a practice area (*i.e.*, patents or trademarks) would be required to submit an application for such practice area. This section would establish that all law schools would be required to submit a renewal application on a biennial basis.

*Section 11.16(c)* would specify 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 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 one or more schools that have already been admitted to the program. 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 for that practice area. Provided that they are approved by the USPTO, a law school's clinic may include a patent practice, a trademark practice, or both. 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)* would provide the rules for providing limited recognition to students for the purpose of practicing before the USPTO. It would provide 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* would establish rules concerning the continuing obligations of schools participating in the USPTO Law School Clinic Certification Program and specify those circumstances that may result in inactivation or removal of a school from the program.

*Section 11.17(a)* would restate 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)* would establish procedures for law schools to report their program activities to the USPTO.

*Section 11.17(c)* would establish 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)* would establish procedures for removing a law school from the program and would explain the obligations of student practitioners in such event.

### Rulemaking Considerations

*Administrative Procedure Act:* The changes in this proposed 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 proposed 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 USPTO, however, is publishing these proposed rule changes for comment as it seeks the benefit of the public's views.

*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 proposed changes in this rulemaking 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 proposes certain basic quarterly 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 present 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.

*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).

*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.

*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).

*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).

*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).

*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).

*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).

*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).

*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 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).

*Unfunded Mandates Reform Act of 1995*: The changes in this rulemaking do not involve a Federal intergovernmental mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, of 100 million 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.*

*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.*

*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.

*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 and a new information collection request to authorize the collection of new information involved in this notice is being submitted to OMB under the title "Law School Clinic Certification Program." The proposed collection will be available at the OMB's Information Collection Review Web site ([www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain)).

In addition to the new items, this rulemaking action also seeks to associate the following item currently in a different OMB approved collection (0651–0012 Admission to Practice) with this proposed collection: Application by Student to Become a Participant in the Program (PTO–158LS). This transfer will consolidate 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 set forth in the preamble, the United States Patent and Trademark Office proposes to amend 37 CFR part 11 as follows:

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

■ 1. The authority citation for part 11 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 the Office of Enrollment and Discipline 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 the Office of Enrollment and Discipline 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 the Office of Enrollment and Discipline;

(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 the Office of Enrollment and Discipline 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) 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 for clients that qualify for assistance from the law school's clinic.

(b) Each law school participating in the USPTO Law School Clinic

Certification Program shall, on a quarterly basis, provide the Office of Enrollment and Discipline with a report regarding its clinic activity, which shall include:

(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) All other information specified by the OED Director.

**(c) Inactivation of law schools participating in the USPTO Law School Clinic 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 the 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: December 8, 2015.

**Michelle K. Lee,**

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

[FR Doc. 2015-31627 Filed 12-15-15; 8:45 am]

**BILLING CODE P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R05-OAR-2015-0196; FRL-9940-11-Region 5]

**Air Plan Approval; Minnesota and Michigan; Revision to Taconite Federal Implementation Plan**

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

**ACTION:** Proposed rule; reopening of public comment period.

**SUMMARY:** Environmental Protection Agency (EPA) is reopening the public comment period for a proposed rule published October 22, 2015. On November 23, 2015, EPA received a request from the National Tribal Air