

symbol “§” and a numbered heading; for example § 7.71 **Delaware Water Gap National Recreation Area**. (5) Is the description of the rule in the “Supplementary Information” section of the preamble helpful in understanding the proposed rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240.

#### *Drafting Information*

The principal contributors to this proposed rulemaking are Joel Schwartz, Fee Collection Program Manager, and Brian McDonnell, Park Ranger, and Philip A. Selleck, Chief Ranger, Delaware Water Gap NRA.

#### **List of Subjects in 36 CFR Part 7**

District of Columbia, National parks, reporting and recordkeeping requirements.

■ For the reasons stated in the preamble, the National Park Service amends 36 CFR Part 7 as follows:

#### **PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM**

■ 1. The authority citation for Part 7 continues to read as follows:

**Authority:** 16 U.S.C. 1, 3, 9a, 460(q), 462(k); Sec. 7.96 also issued under DC Code 8–137 (1981) and DC Code 40–721 (1981).

■ 2. Section 7.71 is amended by revising paragraphs (e)(1)(i) through (vi) to read as follows:

#### **§ 7.71 Delaware Water Gap National Recreation Area.**

(e) *Commercial Vehicle Fees.*

(1) \* \* \*

- (i) Two-axle car, van or truck—\$3
- (ii) Two-axle vehicle with trailer—\$5
- (iii) Two-axle 6-wheeled vehicle—\$8
- (iv) Three-axle vehicle—\$10
- (v) Four-axle vehicle—\$13
- (vi) Five or more-axle vehicle—\$18

\* \* \* \* \*

Dated: September 16, 2004.

**Paul Hoffman,**

*Deputy Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 04–21470 Filed 9–23–04; 8:45 am]

BILLING CODE 4312–JG–P

## **DEPARTMENT OF COMMERCE**

### **Patent and Trademark Office**

#### **37 CFR Parts 2 and 7**

[Docket No. 2004–T–037]

RIN 0651–AB78

#### **New Mailing Addresses for Paper Submissions of Trademark-Related Correspondence and Madrid Protocol Rules Change**

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

**ACTION:** Final rule.

**SUMMARY:** The United States Patent and Trademark Office (“Office”) is amending its rules to provide for new mailing addresses for trademark-related correspondence submitted on paper. The Office is also amending some of the rules that govern the submission of documents pursuant to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (“Madrid Protocol”) in the United States. Specifically, the Office is: Removing the requirement that international applications, subsequent designations, responses to notices of irregularity issued by the International Bureau of the World Intellectual Property Organization (“IB”), and requests for transformation be filed through the Trademark Electronic Application System (“TEAS”); limiting the requirement that fees payable to the IB for international applications, subsequent designations, and requests to record changes of ownership in the International Register be paid at the time of submission only if the document is filed through TEAS; and designating new mailing addresses for trademark-related correspondence and paper-filed international applications, subsequent designations, responses to notices of irregularity, requests to record changes in the International Register, requests for transformation, and petitions to the Director to review an action of the Office’s Madrid Processing Unit (“MPU”).

**DATES:** *Effective Date:* October 4, 2004.

#### **FOR FURTHER INFORMATION CONTACT:**

Cheryl L. Black, Office of the Commissioner for Trademarks, by telephone at (703) 308–8910, ext. 153, or by e-mail to [cheryl.black@uspto.gov](mailto:cheryl.black@uspto.gov).

#### **SUPPLEMENTARY INFORMATION:**

## **Background**

### *New Mailing Addresses for Paper Submissions of Trademark-Related Documents*

The Office’s Trademark Operation, as well as its Trademark Trial and Appeal Board, are currently housed at 2900 Crystal Drive in Arlington, Virginia, and § 2.190 requires that all trademark-related correspondence filed on paper, except for requests to record documents in the Assignment Services Division and requests for copies of trademark documents, be sent to that location.

The Trademark Operation and the Trademark Trial and Appeal Board are moving to a new facility in Alexandria, Virginia. It is expected that this move will commence on or about October 4, 2004, and will be completed on or about November 9, 2004. The Office is therefore amending § 2.190 to provide for new mailing addresses for all paper-filed trademark-related correspondence, except for requests to record documents in the Assignment Services Division and requests for copies of trademark documents.

The Office continues to encourage trademark applicants and registrants to file documents with the Trademark Operation via the Trademark Electronic Application System (“TEAS”), available at <http://www.uspto.gov>, and to file documents with the Trademark Trial and Appeal Board via the Electronic System for Trademark Trials and Appeals (“ESTTA”), available at <http://estta.uspto.gov>.

### *Madrid Protocol Rules Changes*

The Madrid Protocol is an international treaty that allows a trademark owner to seek registration in any of the countries and organizations that have joined the Protocol (“Contracting Parties”), by submitting a single international application. The international application must be based on a trademark application filed in or registration issued by the trademark office of one of the Contracting Parties (“basic application” or “basic registration”), and must be submitted to the IB through the trademark office of the Contracting Party in which the basic application or registration is held (“Office of Origin”). Before forwarding the international application to the IB, the Office of Origin must certify that the information in the international application corresponds to the information in the basic application or registration.

The Madrid Protocol became effective in the United States on November 2, 2003. The Madrid Protocol Implementation Act of 2002, Public Law

107–273, 116 Stat. 1758, 1913–1921 (“MPIA”) amended the Trademark Act to provide that: (1) The owner of a U.S. application or registration may seek protection of its mark in any of the countries and organizations party to the Madrid Protocol by submitting a single international application to the IB through the Office; and (2) the holder of an international registration may request an extension of protection of the international registration to the United States. A notice of final rule making amending the Trademark Rules of Practice to incorporate the MPIA was published at 68 FR 55748 (Sept. 26, 2003).

The rules required: (1) That filers use TEAS to submit international applications, subsequent designations, responses to notices of irregularity, requests to record changes in the International Register, and requests for transformation; and (2) that international fees required by the IB for international applications, subsequent designations and requests to record changes in the International Register be paid through TEAS at the time of submission. Due to unforeseen technical difficulties, the deployment of Madrid-related TEAS forms has been delayed. Therefore, these requirements of the rules were temporarily waived in a notice published at 68 FR 74479 (Dec. 24, 2003). The Office is amending its rules to incorporate these changes.

The Madrid Protocol, Common Regulations Under the Madrid Agreement Concerning the International Registration of Marks and the Protocol Relating to That Agreement (April 1, 2004) (“Common Regs.”), and Guide to International Registration (2004) (“Guide”), are available on the IB’s Web site, at <http://www.wipo.int/madrid>. The Common Regs. are the procedures agreed to by the Contracting Parties, pursuant to Madrid Protocol Article 10(2)(iii).

References below to “the Act,” “the Trademark Act,” or “the statute” refer to the Trademark Act of 1946, 15 U.S.C. 1051, *et seq.*, as amended.

### Discussion of Specific Rules

The Office is amending rules 2.190, 2.195, 2.197, 7.4, 7.7, 7.11, 7.14, 7.21, 7.23, 7.25, and 7.31.

The Office is revising § 2.190(a) to set forth a new mailing address for all paper-filed trademark-related correspondence (except requests to record documents in the Assignment Services Division, requests for copies of trademark documents, and certain documents filed pursuant to the Madrid Protocol), and adding a new § 2.190(e) to set forth a new mailing address for

the following Madrid-related paper-filed documents: international applications under § 7.11; subsequent designations under § 7.21; responses to notices of irregularity under § 7.14; requests to record changes in the International Register under § 7.23 and § 7.24; requests for transformation under § 7.31; and petitions to the Director to review an action of the MPU.

The Office is amending § 2.195(d)(3) to delete the word “and” after the semi-colon, and amending § 2.195(d)(4) to replace the period with a semi-colon and to add the word “and” after the semi-colon.

The Office is adding a new § 2.195(d)(5), to prohibit the use of facsimile transmission to file international applications, subsequent designations, responses to notices of irregularity, requests for transformation, and requests to record changes in the International Register.

The Office is revising § 2.197(a)(2) to provide that the certificate of mailing or transmission procedure described in § 2.197(a)(1) does not apply to international applications, subsequent designations, responses to notices of irregularity, requests for transformation, and requests to record changes in the International Register.

The Office is redesignating the current § 7.4 as § 7.4(a).

The Office is adding a new § 7.4(b) to designate a new mailing address for paper-filed international applications, subsequent designations, responses to notices of irregularity, requests to record changes in the International Register, requests for transformation, and petitions to the Director to review an action of the MPU.

The Office is adding a new § 7.4(b)(1), to provide that international applications, subsequent designations, requests to record changes in the International Register, and petitions to the Director to review an action of the MPU, when filed by mail, will be accorded the date of receipt in the Office, unless they are sent by Express Mail pursuant to § 2.198, in which case they will be accorded the date of deposit with the United States Postal Service.

The Office is adding a new § 7.4(b)(2), to provide that requests for transformation and responses to notices of irregularity, when filed by mail, will be accorded the date of receipt in the Office. International applicants are advised that a response to a notice of irregularity under § 7.14 must be received at the IB before the end of the response period set forth in the IB’s notice. Receipt in the Office does not satisfy this requirement. See § 7.14(e); IB’s Guide at B.I.05.01.

The Office is adding a new § 7.4(c) to designate a location for hand delivery of international applications, subsequent designations, responses to notices of irregularity, requests to record changes in the International Register, requests for transformation, and petitions to the Director to review an action of the MPU.

The Office is adding a new § 7.4(d), to prohibit the use of facsimile transmission to file international applications, subsequent designations, responses to notices of irregularity, requests for transformation, and requests to record changes in the International Register.

The Office is adding a new § 7.4(e), to provide that the certificate of mailing or transmission procedure described in § 2.197(a)(1) does not apply to international applications, subsequent designations, responses to notices of irregularity, requests for transformation, and requests to record changes in the International Register. This is consistent with the revision to § 2.197(a)(2), discussed above.

The Office is revising § 7.7(a) to provide that fees for international applications, subsequent designations, and requests to record changes of ownership may be paid to the IB through the Office only when the documents are filed through TEAS. At present, the Office is unable to process international fees for paper filings.

The Office is adding a new § 7.7(c) to provide that all fees for paper filings must be paid directly to the IB. These fees can be paid to the IB either before or after submission of the document to the Office. However, fees paid after the document is received by the IB could result in a notice of irregularity.

The Office is redesignating § 7.7(c) as § 7.7(d).

The Office is revising § 7.11(a) to remove the requirement that an international application be filed through TEAS and to permit the filing of an international application either through TEAS, or on the official paper form issued by the IB, currently available on the IB’s Web site at <http://www.wipo.int/madrid>. Inasmuch as deployment of the TEAS form has been delayed due to unforeseen technical difficulties, international applications must be filed on paper until the TEAS form is posted on the Office’s Web site. When the TEAS form is posted, applicants will have the option to file international applications either on paper or through TEAS.

Revised § 7.11(a) requires that an international application filed on paper be presented on the official paper form issued by the IB, currently available on the IB’s Web site at <http://www.wipo.int/madrid>.

[www.wipo.int/madrid](http://www.wipo.int/madrid). MM2 is the official IB form for an application for international registration under the Madrid Protocol. The IB does not accept paper applications that are not presented on the official IB form. The form cannot be hand-written. Madrid Protocol Article 3(1); Common Regs. 9(2)(a) and 11(4)(a)(i). When submitting an international application on paper, applicants should complete the official form online, print the completed form, and submit it to the Office. For instructions on completing the IB's official international application form, see the IB's Guide at B.II.07.01–20.11.

The Office is revising § 7.11(a)(3) by breaking it into subsections 7.11(a)(3)(i) through 7.11(a)(3)(iii), for purposes of clarity.

The Office is adding a new § 7.11(a)(3)(iv), to require, for international applications filed on paper, that the depiction of the mark appear no larger than 3.15 inches (8 cm) high by 3.15 inches (8 cm) wide, and that the mark be placed in the box designated by the IB on the IB's official form. This is required by Common Reg. 9(4)(a)(v). The size requirement is consistent with the size requirement of § 2.54(b).

The Office is revising § 7.11(a)(9) to delete reference to fees payable to the IB for international applications. These fees are provided for in new § 7.11(a)(10).

The Office is redesignating § 7.11(a)(10) as § 7.11(a)(11) and revising it to provide that if an international application is filed through TEAS, in order to be accorded a date of receipt in the Office it must include the international application fees for all classes, and the fees for all designated Contracting Parties identified in the application. This requirement does not apply to international applications filed on paper. Under new § 7.7(c), international fees for paper applications must be paid directly to the IB, and may be paid either before or after submission of the international application to the Office. However, fees paid after the international application is received by the IB could result in a notice of irregularity. The requirement in § 7.11(a)(9) that the U.S. certification fee required by § 7.6 be paid at the time of submission in order to obtain a date of receipt applies to both TEAS and paper applications.

The Office is redesignating § 7.11(a)(11) as § 7.11(a)(12), and revising it to provide that an e-mail address for correspondence is required only when the international application is filed through TEAS. The inclusion of

an e-mail address in paper applications is encouraged, but not mandatory.

The Office is revising § 7.14(e) to remove the requirement that a response to a notice of irregularity issued by the IB be filed through TEAS. Deployment of the TEAS form has been delayed due to unforeseen technical difficulties. Until the TEAS form is available, responses to notices of irregularity must be filed on paper. When the TEAS form is operational, applicants will have the option to file responses either on paper or through TEAS.

The Office is revising § 7.21(b) to remove the requirement that a subsequent designation be submitted through TEAS, and permit the submission of a subsequent designation either through TEAS or on the official paper form issued by the IB. Deployment of the TEAS form has been delayed due to unforeseen technical difficulties. Until the TEAS form is available, subsequent designations must be filed on paper. When the TEAS form is posted, holders will have the option to file subsequent designations either on paper or through TEAS.

Revised § 7.21(b) requires that a subsequent designation filed on paper be presented on the official paper form issued by the IB, currently available on the IB's Web site at <http://www.wipo.int/madrid>. MM4 is the official IB form for a designation subsequent to the international registration under the Madrid Protocol. The IB does not accept paper subsequent designations that are not presented on the official IB form. The form cannot be hand-written. Madrid Protocol Article 3<sup>ter</sup>(2); Common Reg. 24(2)(b). When submitting a subsequent designation on paper, the holder should complete the official form online, print the completed form, and submit it to the Office. Completed subsequent designations may also be filed directly at the IB. The IB's Guide contains instructions for completing the subsequent designation form, at B.II.43.01–44.03.

The Office is revising § 7.21(b)(7) to delete reference to subsequent designation fees payable to the IB. These fees are provided for in new § 7.21(a)(8).

The Office is revising § 7.21(a)(8) to provide that a subsequent designation filed through TEAS must include the subsequent designation fees payable to the IB in order to obtain a date of receipt in the Office. This requirement does not apply to subsequent designations filed on paper. Under new § 7.7(c), fees for paper subsequent designations must be paid directly to the IB, and may be paid either before or after submission of the subsequent designation to the Office.

However, fees paid after the subsequent designation is received by the IB could result in a notice of irregularity. The requirement that the U.S. transmittal fee required by § 7.6 be paid at the time of submission in order to obtain a date of receipt remains unchanged for paper subsequent designations.

The Office is redesignating § 7.21(b)(8) as § 7.21(b)(9), and revising it to provide that an e-mail address for correspondence is required only if the subsequent designation is filed through TEAS. The inclusion of an e-mail address in a paper subsequent designation is encouraged, but not mandatory.

The Office is revising § 7.23(a)(8) to remove the requirement that a request to record a change of ownership include the recording fee required by the IB. The Office currently does not have an electronic form available for requests to record changes of ownership, and cannot process the international fees for paper filings. Therefore, under § 7.7(c), if a request to record a change of ownership is submitted on paper, the fee must be paid directly to the IB, and may be paid either before or after submission of the request to the Office. However, fees paid after the request is received by the IB could result in a notice of irregularity. The requirement that the U.S. transmittal fee required by § 7.6 be paid at the time the request is submitted remains unchanged.

The Office is revising § 7.25(a) to delete the designation of § 2.172 as a section of part 2 of this chapter that does not apply to registered extensions of protection of international registrations to the United States. This will allow parties to file requests to surrender registered extensions of protection of an international registration to the United States either directly with the IB or with the Office. If the request to surrender is filed through the Office, the Office will notify the IB of the surrender.

The Office is amending § 7.31(a) to delete the requirement that a request for transformation be filed through TEAS. The Office currently does not have a TEAS form available for requests for transformation. Until the TEAS form is available on the Office's Web site, requests for transformation must be filed on paper. When the TEAS form is operational, holders will be able to file requests for transformation either on paper or through TEAS.

## Rule Making Requirements

### *Administrative Procedure Act*

This final rule merely involves rules of agency practice and procedure within

the meaning of 5 U.S.C. 553(b)(A), as it merely provides new mailing addresses for certain trademark-related correspondence and eliminates certain existing procedural requirements related to filings under the Madrid Protocol that were waived pursuant to a notice published at 68 FR 74479 (Dec. 24, 2003) and incorporates agency procedure and practice to implement the changes therein. Therefore, this final rule may be adopted without prior notice and opportunity for public comment under 5 U.S.C. 553(b) and (c), or thirty-day advance publication under 5 U.S.C. 553(d).

#### *Regulatory Flexibility Act*

The changes in this final rule merely: (1) Set forth the mailing addresses that should be used for mailing certain trademark-related correspondence to the Office; and (2) incorporate agency procedures and practice put in place to ensure compliance with a notice published at 68 FR 74479 (Dec. 24, 2003) eliminating certain existing requirements for trademark-related filings under the Madrid Protocol. This final rule package does not impose any new fees on members of the public, and places no additional economic burden on large or small entities.

This final rule change is a rule of agency practice and procedure under 5 U.S.C. 553(b)(A), and prior notice and an opportunity for public comment therefore is not required pursuant to 5 U.S.C. 553(b)(A) (or any other law). See *Bachow Communications Inc. v. FCC*, 237 F.3d 683, 690 (D.C. Cir. 2001) (rules governing an application process are "rules of agency organization, procedure, or practice" and exempt from the Administrative Procedure Act's notice and comment requirement); *Merck & Co., Inc. v. Kessler*, 80 F.3d 1543, 1549-50, 38 USPQ2d 1347, 1351 (Fed. Cir. 1996) (the rules of practice promulgated under the authority of former 35 U.S.C. 6(a) (now in 35 U.S.C. 2(b)(2)) are not substantive rules (to which the notice and comment requirements of the Administrative Procedure Act apply)); *Fressola v. Manbeck*, 36 USPQ2d 1211, 1215 (D.D.C. 1995) ("it is doubtful whether any of the rules formulated to govern patent and trade-mark practice are other than 'interpretative rules, general statements of policy, \* \* \* procedure, or practice'" (quoting C.W. Ooms, *The United States Patent Office and the Administrative Procedure Act*, 38 Trademark Rep. 149, 153 (1948)). Thus, the provisions of the Regulatory Flexibility Act are not applicable to this rule making.

#### *Executive Order 13132*

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

#### *Executive Order 12866*

This rule making has been determined not to be significant for purposes of Executive Order 12866.

#### *Paperwork Reduction Act*

The final rules are in conformity with the requirements of the Paperwork Reduction Act of 1995 ("PRA") (44 U.S.C. 3501 *et seq.*).

An information collection package supporting the information requirements set forth in this rule was approved by the Office of Management and Budget under 0651-0051. That information collection package included a requirement that the following documents be submitted electronically: international applications under § 7.11, subsequent designations under § 7.21, responses to notices of irregularity under § 7.14, and requests for transformation under § 7.31. This final rule removes the requirement that these forms be filed electronically, and instead permits filing either electronically or on paper. The information to be provided on paper is the same information as that collected by the electronic forms described in the information collection package that was approved under 0651-0051.

These final rules require that international applications and subsequent designations, when submitted on paper, be presented on the official forms provided by the IB. The IB will not accept paper international applications and subsequent designations that are not presented on the official IB form. Madrid Protocol Article 3(1) and 3<sup>ter</sup>(2); Common Regs. 9(2)(a), 11(4)(a)(i), and 24(2)(b). The IB's paper forms collect the same information required in the electronic forms approved under 0651-0051.

Neither the Office nor the IB provides a paper form for responses to notices of irregularity or requests for transformation. The applicant/holder must provide the same information required in the electronic forms approved under 0651-0051, using the form of their choice.

There are no other new information collection requirements in this final rule.

The public reporting burden is estimated to average as follows: Fifteen minutes for international trademark applications; three minutes for

subsequent designations; ten minutes for responses to notices of irregularities issued by the IB; and five minutes for requests to transform cancelled extensions of protection into applications for registration under section 1 or 44 of the Trademark Act. These time estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments are invited on: (1) Whether the collection of information is necessary for proper performance of the functions of the agency, (2) the accuracy of the agency's estimate of the burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) ways to minimize the burden of the collection of information to respondents.

Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3514 (Attn: Ari Leifman), and to the Office of Information and Regulatory Affairs, OMB, 725 17th Street, NW., Washington, DC 20503 (Attn: USPTO Desk Officer).

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**

##### *37 CFR Part 2*

Administrative practice and procedure, Trademarks.

##### *37 CFR Part 7*

Administrative practice and procedure, Trademarks.

■ For the reasons given in the preamble and under the authority contained in 15 U.S.C. 1123 and 35 U.S.C. 2, as amended, the Office is amending parts 2 and 7 of title 37 as follows:

#### **PART 2—RULES OF PRACTICE IN TRADEMARK CASES**

■ 1. Amend § 2.190 by revising paragraph (a) and adding a new paragraph (e) to read as follows:

**§ 2.190 Addresses for trademark correspondence with the United States Patent and Trademark Office.**

(a) *Trademark correspondence. In general.* All trademark-related documents filed on paper, except documents sent to the Assignment Services Division for recordation, requests for copies of trademark documents, and certain documents filed under the Madrid Protocol as specified in paragraph (e) of this section, should be addressed to: Commissioner for Trademarks, PO Box 1451, Alexandria, VA 22313-1451.

(e) *Certain Documents Relating to International Applications and Registrations.* International applications under § 7.11 of this title, subsequent designations under § 7.21 of this title, responses to notices of irregularity under § 7.14 of this title, requests to record changes in the International Register under § 7.23 and § 7.24 of this title, requests for transformation under § 7.31 of this title, and petitions to the Director to review an action of the Office's Madrid Processing Unit, when filed by mail, must be mailed to: Commissioner for Trademarks, PO Box 16471, Arlington, VA 22215-1471, Attention MPU.

■ 2. Amend § 2.195 by revising paragraphs (d)(3) and (d)(4), and adding a new paragraph (d)(5) to read as follows:

**§ 2.195 Receipt of trademark correspondence.**

\* \* \* \* \*

(d) \* \* \*

(3) Correspondence to be filed with the Trademark Trial and Appeal Board, except notices of ex parte appeal;

(4) Requests for cancellation or amendment of a registration under section 7(e) of the Trademark Act; and certificates of registration surrendered for cancellation or amendment under section 7(e) of the Trademark Act; and

(5) Madrid-related correspondence submitted under § 7.11, § 7.21, § 7.14, § 7.23, § 7.24, or § 7.31 of this title.

\* \* \* \* \*

■ 3. Amend § 2.197 by revising paragraph (a)(2) to read as follows:

**§ 2.197 Certificate of mailing or transmission.**

(a) \* \* \*

(2) The procedure described in paragraph (a)(1) of this section does not apply to:

(i) Applications for the registration of marks under 15 U.S.C. 1051 or 1126; and

(ii) Madrid-related correspondence filed under § 7.11, § 7.21, § 7.14, § 7.23, § 7.24 or § 7.31 of this title.

\* \* \* \* \*

**PART 7—RULES OF PRACTICE IN FILINGS PURSUANT TO THE PROTOCOL RELATING TO THE MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS**

■ 4. Revise § 7.4 to read as follows:

**§ 7.4 Receipt of correspondence.**

(a) *Correspondence Filed Through TEAS.* Correspondence relating to international applications and registrations and requests for extension of protection submitted through TEAS will be accorded the date and time on which the complete transmission is received in the Office based on Eastern Time. Eastern Time means eastern standard time or eastern daylight time, as appropriate.

(b) *Correspondence Filed By Mail.* International applications under § 7.11, subsequent designations under § 7.21, responses to notices of irregularity under § 7.14, requests to record changes in the International Register under § 7.23 and § 7.24, requests for transformation under § 7.31, and petitions to the Director to review an action of the Office's Madrid Processing Unit, when filed by mail, must be addressed to: Commissioner for Trademarks, P.O. Box 16471, Arlington, VA 22215-1471, Attn: MPU.

(1) International applications under § 7.11, subsequent designations under § 7.21, requests to record changes in the International Register under § 7.23 and § 7.24, and petitions to the Director to review an action of the Office's Madrid Processing Unit, when filed by mail, will be accorded the date of receipt in the Office, unless they are sent by Express Mail pursuant to § 2.198 of this title, in which case they will be accorded the date of deposit with the United States Postal Service.

(2) Responses to notices of irregularity under § 7.14 and requests for transformation under § 7.31, when filed by mail, will be accorded the date of receipt in the Office.

(c) *Hand-Delivered Correspondence.* International applications under § 7.11, subsequent designations under § 7.21, responses to notices of irregularity under § 7.14, requests to record changes in the International Register under § 7.23 and § 7.24, requests for transformation under § 7.31, and petitions to the Director to review an action of the Office's Madrid Processing Unit, may be delivered by hand during

the hours the Office is open to receive correspondence. Madrid-related hand-delivered correspondence must be delivered to the Trademark Assistance Center, AE00C55, Madison East, 600 Dulany Street, Alexandria, VA 22313.

(d) *Facsimile Transmission Not Permitted.* The following documents may not be sent by facsimile transmission, and will not be accorded a date of receipt if sent by facsimile transmission:

(1) International applications under § 7.11;

(2) Subsequent designations under § 7.21;

(3) Responses to notices of irregularity under § 7.14;

(4) Requests to record changes of ownership under § 7.23;

(5) Requests to record restrictions of the holder's right of disposal, or the release of such restrictions, under § 7.24; and

(6) Requests for transformation under § 7.31.

(e) *Certificate of Mailing or Transmission Procedure Does Not Apply.* The certificate of mailing or transmission procedure provided in § 2.197 does not apply to the documents specified in paragraph (d) of this section.

■ 5. Amend § 7.7 by revising paragraph (a) introductory text, redesignating paragraph (c) as paragraph (d), and adding a new paragraph (c) to read as follows:

**§ 7.7 Payments of fees to International Bureau.**

(a) For documents filed through TEAS, the following fees may be paid either directly to the International Bureau or through the Office:

\* \* \* \* \*

(c) All fees for paper filings must be paid directly to the International Bureau.

(d) The International Bureau fee calculator may be viewed on the web site of the World Intellectual Property Organization, currently available at: <http://www.wipo.int/madrid/en/>.

■ 6. Amend § 7.11 by revising paragraphs (a), introductory text (a)(3), (a)(9), (a)(10) and (a)(11), and adding a new paragraph (a)(12) to read as follows:

**§ 7.11 Requirements for international application originating from the United States.**

(a) The Office will grant a date of receipt to an international application that is either filed through TEAS, or typed on the official paper form issued by the International Bureau. The

international application must include all of the following:

\* \* \* \* \*

(3) A reproduction of the mark that is the same as the mark in the basic application and/or registration and that meets the requirements of § 2.52 of this title.

(i) If the mark in the basic application and/or registration is depicted in black and white and the basic application or registration does not include a color claim, the reproduction of the mark in the international application must be black and white.

(ii) If the mark in the basic application or registration is depicted in black and white and includes a color claim, the international application must include both a black and white reproduction of the mark and a color reproduction of the mark.

(iii) If the mark in the basic application and/or registration is depicted in color, the reproduction of the mark in the international application must be in color.

(iv) If the international application is filed on paper, the mark must be no more than 3.15 inches (8 cm) high by 3.15 inches (8 cm) wide, and must appear in the box designated by the International Bureau on the International Bureau's official form;

\* \* \* \* \*

(9) The certification fee required by § 7.6;

(10) If the application is filed through TEAS, the international application fees for all classes, and the fees for all designated Contracting Parties identified in the international application (see § 7.7);

(11) A statement that the applicant is entitled to file an international application in the Office, specifying that applicant: is a national of the United States; has a domicile in the United States; or has a real and effective industrial or commercial establishment in the United States. Where an applicant's address is not in the United States, the applicant must provide the address of its U.S. domicile or establishment; and

(12) If the international application is filed through TEAS, an e-mail address for receipt of correspondence from the Office.

\* \* \* \* \*

■ 7. Amend § 7.14 by revising paragraph (e) to read as follows:

**§ 7.14 Correcting irregularities in international application.**

(a) \* \* \*

(e) *Procedure for response.* To be considered timely, a response must be

received by the International Bureau before the end of the response period set forth in the International Bureau's notice. Receipt in the Office does not fulfill this requirement. Any response submitted through the Office for forwarding to the International Bureau should be submitted as soon as possible, but at least one month before the end of the response period in the International Bureau's notice. The Office will not process any response submitted to the Office after the International Bureau's response deadline.

■ 8. Amend § 7.21 by revising paragraphs (b) introductory text, (b)(7), and (b)(8), and adding a new paragraph (b)(9), to read as follows:

**§ 7.21 Subsequent designation.**

\* \* \* \* \*

(b) The Office will grant a date of receipt to a subsequent designation that is either filed through TEAS, or typed on the official paper form issued by the International Bureau. The subsequent designation must contain all of the following:

\* \* \* \* \*

(7) The U.S. transmittal fee required by § 7.6;

(8) If the subsequent designation is filed through TEAS, the subsequent designation fees (see § 7.7); and

(9) If the subsequent designation is filed through TEAS, an e-mail address for receipt of correspondence from the Office.

\* \* \* \* \*

■ 9. Amend § 7.23 by revising paragraph (a)(8) to read as follows:

**§ 7.23 Requests for recording assignments at the International Bureau.**

\* \* \* \* \*

(a) \* \* \*

(8) The U.S. transmittal fee required by § 7.6.

\* \* \* \* \*

■ 10. Amend § 7.25 by revising paragraph (a) to read as follows:

**§ 7.25 Sections of part 2 applicable to extension of protection.**

(a) Except for §§ 2.130–2.131, 2.160–2.166, 2.168, 2.173, 2.175, 2.181–2.186, and 2.197, all sections in part 2 of this chapter and all sections of part 10 of this chapter apply to a request for extension of protection of an international registration to the United States, including sections related to proceedings before the Trademark Trial and Appeal Board, unless stated otherwise.

\* \* \* \* \*

■ 11. Amend § 7.31 by revising paragraph (a) introductory text to read as follows:

**§ 7.31 Requirements for transformation of an extension of protection to the United States into a U.S. application.**

\* \* \* \* \*

(a) The holder of the international registration must file a request for transformation within three months of the date of cancellation of the international registration and include:

\* \* \* \* \*

Dated: September 17, 2004.

Jon W. Dudas,

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

[FR Doc. 04–21476 Filed 9–23–04; 8:45 am]

BILLING CODE 3510–16–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 62**

[Region II Docket No. R02–OAR–2004–NJ–0003, FRL–7818–4]

**Approval and Promulgation of State Plans for Designated Facilities; New Jersey**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a negative declaration submitted by the State of New Jersey. The negative declaration fulfills EPA's promulgated Emission Guidelines for existing commercial and industrial solid waste incinerator (CISWI) sources. In accordance with the Emission Guidelines, states are not required to submit a plan to implement and enforce the Emission Guidelines if there are no existing CISWI sources in the state and if it submits a negative declaration letter in place of the State Plan.

**DATES:** This rule will be effective October 25, 2004.

**ADDRESSES:** Copies of the state submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866.

New Jersey Department of Environmental Protection, Office of Air Quality Management, Bureau of Air Pollution Control, 401 East State Street, CN027, Trenton, New Jersey 08625.

Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket, Room B–108, 1301