

## Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt state law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for Federalism.

## Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In 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 or more in any one year. Though this will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

## Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

## Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

## Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

## Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

## Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply,

Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

## Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction, from further environmental documentation. A final “Environmental Analysis Check List” and a final “Categorical Exclusion Determination” are available in the docket where indicated under **ADDRESSES**.

## List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and record keeping requirements, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100, as follows:

## PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 100.35T–07–099 to read as follows:

### § 100.35T–07–099 World Championship Super Boat Race; Deerfield Beach, Florida.

(a) *Regulated areas.* (1) The regulated race area encompasses all waters located within a line connecting the following positions located offshore of Deerfield Beach, Florida—Point 1: 26°15.70 N, 080°04.90 W; Point 2: 26°15.70 N, 080°04.10 W, Point 3: 26°19.70 N, 080°03.70 W, and Point 4: 26°19.70 N, 080°04.40 W. All coordinates referenced use Datum: NAD 1983.

(2) The regulated viewing area encompasses all waters located within a line connecting the following positions located offshore of Deerfield Beach, Florida—Point 1: 26°15.50 N; 080°04.20

W; Point 2: 26°15.50 N; 080°04.00 W; Point 3: 26°19.39 N; 080°03.90 W; and Point 4: 26°19.39 N; 080°04.05 W. All coordinates referenced use Datum NAD: 1983.

(b) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by Commanding Officer, Coast Guard Group Miami, Florida.

(c) *Special Local Regulations.* From 11 a.m. until 4 p.m. on November 4, November 6, and November 9, 2003, non-participant vessels are prohibited from entering the race area unless authorized by the Coast Guard Patrol Commander. Spectator craft may remain in the designated viewing area, but must follow the directions of the Coast Guard Patrol Commander.

(d) *Dates:* This section is effective from 11 a.m. on November 4, 2003, until 4 p.m. on November 9, 2003.

Dated: October 31, 2003.

**Harvey E. Johnson, Jr.,**

*Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.*

[FR Doc. 03–28012 Filed 11–6–03; 8:45 am]

**BILLING CODE 4910–15–P**

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

### 37 CFR Parts 2 and 7

[Docket No. 2003–T–030]

RIN 0651–AB0045

### Modification to Temporary Postponement of Electronic Filing and Payment Rules for Certain Madrid Protocol-Related Rules

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

**ACTION:** Final rule; modification to suspension of applicability dates.

**SUMMARY:** The United States Patent and Trademark Office (USPTO) is modifying a temporary postponement of those provisions of the Trademark Rules of Practice that require electronic transmission to the USPTO of applications for international registration, responses to irregularity notices, and subsequent designations submitted pursuant to the Madrid Protocol. That postponement was announced in a document published in the **Federal Register** on October 24, 2003.

The USPTO is also modifying a temporary suspension, announced in the same **Federal Register** document, of those provisions of the Rules of Practice

that allow payment of fees charged by the International Bureau of the World Intellectual Property Organization (IB) to be submitted through the USPTO, and those provisions of the Trademark Rules of Practice that require that all fees for international trademark applications and subsequent designations be paid at the time of filing.

The temporary postponements and the temporary suspensions of the Rules of Practice, as well as the modifications to these postponements and suspensions that are announced herein, are in effect from November 2, 2003, to January 2, 2004. If it becomes necessary to extend the suspensions and postponements, and/or the modifications thereto, the USPTO will issue a notice announcing these extensions at least 10 business days before the extensions commence.

The modifications announced herein are procedural in nature and do not affect any substantive rights.

**DATES:** The applicability date for regulations at 37 CFR 2.190(a), 2.198(a)(1), 7.7(a) and (b), 7.11(a) introductory text and (a)(9), 7.14(e), 7.21(b) introductory text and (b)(7) remains suspended from November 2, 2003, to January 2, 2004.

**FOR FURTHER INFORMATION CONTACT:** Ari Leifman, Office of the Commissioner for Trademarks, by telephone at (703) 308-8910, ext. 155, or by e-mail to [ari.leifman@uspto.gov](mailto:ari.leifman@uspto.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The Madrid Protocol provides a system for obtaining an international trademark registration. The Madrid Protocol Implementation Act of 2002, Pub. L. 107-273, 116 Stat. 1758, 1913-1921 (MPIA) amends the Trademark Act of 1946 to implement the provisions of the Madrid Protocol in the United States.

On September 26, 2003, the USPTO published new regulations to implement the MPIA. 68 FR 55748, posted on the USPTO Web site at <http://www.uspto.gov/web/offices/com/sol/notices/68fr55748.pdf>. These regulations take effect on November 2, 2003. The regulations require that certain submissions that are made to the USPTO in connection with the Madrid Protocol be transmitted using the Trademark Electronic Application System (TEAS). Specifically, 37 CFR 7.11(a) requires that an international application be submitted through TEAS; 37 CFR 7.21(b) requires that a subsequent designation (a request that protection be extended to countries not

identified in the original international application) be submitted through TEAS; and 37 CFR 7.14(e) requires that where the International Bureau of the World Intellectual Property Organization (IB) has issued a notice of irregularity to an international applicant, and the international applicant submits a response to that notice through the USPTO, the response must be transmitted through TEAS.

##### **Madrid Submissions Must Be Prepared Using Paper**

On October 24, 2003, the USPTO published a notice in which it announced that it would permit international applications, responses to irregularity notices, and subsequent designations to be submitted on paper rather than through TEAS, for a temporary period of time. The notice accordingly postponed the applicability of 37 CFR 7.11(a), 7.21(b), and 7.14(e), to the extent that those provisions require transmission through TEAS. The notice further provided that this postponement would remain in effect until January 2, 2004, and that if the postponement was extended beyond January 2, 2004, a notice announcing such an extension would be published at least ten days before the extension commenced.

The postponement remains in effect, but is modified. The notice of the postponement provided that applicants could make their submission either on paper or through TEAS. However, certain technical difficulties will delay the deployment of those TEAS forms that will be used for Madrid submissions until some time after November 2, 2003. Therefore, the USPTO hereby announces that all Madrid submissions must be made on paper, until such time as the TEAS forms are posted on the USPTO web site.

The USPTO will issue a notice announcing the posting of the TEAS forms at least five days before such posting occurs.

If the TEAS forms are posted while the postponement of the applicability dates of 37 CFR 7.11(a), 7.21(b), and 7.14(e) is still in effect, then notwithstanding the modifications to the postponements that are announced herein, applicants will be able to file international applications, responses to irregularity notices, and subsequent designations either on paper or through TEAS. Under any circumstances, there will be a transition period during which the USPTO will accept both electronic and paper submissions.

##### **International Fees Must Be Paid Directly to the IB**

In addition to requiring that certain submissions that are made to the USPTO in connection with the Madrid Protocol be transmitted using TEAS, the Rules of Practice that take effect on November 2, 2003, also require that international application fees be paid at the time of submission. However, with respect to Madrid submissions that are to be made on paper, the notice of October 24, 2003, temporarily suspended the applicability of those requirements. Thus, the notice suspended 37 CFR 7.11(a)(9), to the extent that it requires that international application fees for all classes and the fees for all designated Contracting Parties identified in an international application be paid at the time of submission. Likewise, the notice suspended 37 CFR 7.21(b)(7), to the extent that it requires that all international fees for a subsequent designation be paid at the time of submission.

The notice of October 24, 2003, further provided that (1) applicants who file Madrid submissions on paper must pay the USPTO certification fee at the time of submission, but must pay the international fees directly to the IB, and that (2) applicants who submit a subsequent designation on paper must pay the USPTO transmittal fee at the time of submission, but must pay the international fees directly to the IB. Additionally, the notice provided that applicants may pay the international fees to the IB either before or after submission of the international application or subsequent designation.

All provisions of the notice of October 24, 2003, that pertain to payment of fees remain in effect. However, the following is noted: these provisions of the notice of October 24, 2003, apply in cases where Madrid submissions are made using paper. Pursuant to the present notice, all Madrid submissions must be made on paper. Hence, the provisions of the notice of October 24, 2003, regarding the payment of fees now apply in all cases where Madrid submissions are made.

If the TEAS forms are posted while the postponement of the effective dates of 37 CFR 7.11(a)(9) and 7.21(b)(7) remains in effect, then applicants who elect to use those forms will pay the international fees (1) at the time of submission, and (2) through the USPTO.

##### **Applicants Should Utilize Madrid Forms Provided by the IB**

Applicants making Madrid submissions should use forms provided

by the IB for that purpose. These forms may be downloaded from the IB Web site, <http://www.wipo.int/madrid/en/>. Please note that the IB will not process paper submissions that are not prepared using IB forms.

### Applicants Should Mail Madrid Submissions to a Designated Address

Pursuant to 37 CFR 2.190(a), all trademark-related documents submitted on paper must be mailed to the USPTO address at 2900 Crystal Drive, Arlington, Virginia 22202-3514. However, the notice of October 24, 2003, waived that rule with respect to international applications, subsequent designations, and responses to notices of irregularities that are filed on paper. The notice further provided that all Madrid submissions made on paper should be mailed to the following address: Commissioner for Trademarks, PO Box 16471, Arlington, Virginia 22215-1471, Attn: MPU.

The limited waiver of 37 CFR 2.190(a) remains in effect. However, the following is noted: pursuant to the notice of October 24, 2003, the waiver, and the instruction to utilize the above-identified address, applied to Madrid submissions made on paper. Pursuant to the present notice, all Madrid submissions must be made on paper. Hence, the provisions of the notice of October 24, 2003, regarding the USPTO mailing address apply to all Madrid submissions.

Please note that any trademark-related correspondence other than international applications, subsequent designations, and responses to irregularity notices that is sent to the above-identified address will not be accepted, and will be returned to the sender.

If a submission mailed to the above address pursuant to this notice and to the Notice of October 24, 2003, is delivered by the Express Mail service of the United States Postal Service, the USPTO will deem that the date of receipt of the submission in the USPTO

is the date the submission was deposited as Express Mail, provided that the submitter complies with the requirements set forth in 37 CFR 2.198.

Dated: October 31, 2003.

**James E. Rogan,**

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

[FR Doc. 03-27917 Filed 11-6-03; 8:45 am]

**BILLING CODE 3510-16-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 51 and 52

**[FRL-7583-7, E-Docket ID No. A-2001-0004 (Legacy Docket ID No. A-90-37)]**

### Prevention of Significant Deterioration (PSD) and Non-Attainment New Source Review (NSR): Reconsideration

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

**ACTION:** Notice of final action on reconsideration; amendment to final rules.

**SUMMARY:** On December 31, 2002 and March 10, 2003, EPA revised regulations governing the major New Source Review (NSR) programs mandated by parts C and D of title I of the Clean Air Act (CAA or Act). Following these actions, the Administrator received a number of petitions for reconsideration. On July 30, 2003, EPA announced its reconsideration of certain issues arising from the final rules of December 31, 2002. We (the EPA) requested public comment on six issues for which we granted reconsideration. As a result of this reconsideration process, we have concluded that two clarifications to the underlying rules are warranted, which are: To include a definition of "replacement unit" and to clarify that the plantwide applicability limitation (PAL) baseline calculation procedures for newly constructed units do not

apply to modified units. With respect to all other issues raised by the petitioners, we deny the requests for reconsideration.

**EFFECTIVE DATE:** This final action is effective on January 6, 2004.

**ADDRESSES:** *Docket.* Docket No. A-90-37 (E-Docket ID No. OAR-2001-0004), containing supporting information used to develop the proposed rule and the final rule, is available for public inspection and copying between 8 a.m. and 4:30 p.m., Monday through Friday (except government holidays) at the Air and Radiation Docket and Information Center (6102T), Room B108, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC 20460; telephone (202) 566-1742, fax (202) 566-1741. A reasonable fee may be charged for copying docket materials.

*Worldwide Web (WWW).* In addition to being available in the docket, an electronic copy of this final action will also be available on the WWW. Following signature, a copy of the notice will be posted on the EPA's NSR page: <http://www.epa.gov/nsr>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Lynn Hutchinson, Information Transfer and Program Integration Division (C339-03), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone (919) 541-5795, or electronic mail at [hutchinson.lynn@epa.gov](mailto:hutchinson.lynn@epa.gov), or Ms. Janet McDonald, at the same street address, telephone (919) 541-1450, or electronic mail at [mcdonald.janet@epa.gov](mailto:mcdonald.janet@epa.gov).

### SUPPLEMENTARY INFORMATION:

#### I. General Information

##### A. What Are the Regulated Entities?

Entities potentially affected by the subject rule for today's action include sources in all industry groups. The majority of sources potentially affected are expected to be in the following groups.

Industry Group	SIC <sup>a</sup>	NAICS <sup>b</sup>
Electric Services .....	491	221111, 221112, 221113, 221119, 221121, 221122
Petroleum Refining .....	291	324110
Industrial Inorganic Chemicals .....	281	325181, 325120, 325131, 325182, 211112, 325998, 331311, 325188
Industrial Organic Chemicals .....	286	325110, 325132, 325192, 325188, 325193, 325120, 325199
Miscellaneous Chemical Products .....	289	325520, 325920, 325910, 325182, 325510
Natural Gas Liquids .....	132	211112
Natural Gas Transport .....	492	486210, 221210
Pulp and Paper Mills .....	261	322110, 322121, 322122, 322130
Paper Mills .....	262	322121, 322122
Automobile Manufacturing .....	371	336111, 336112, 336211, 336992, 336322, 336312, 336330, 336340, 336350, 336399, 336212, 336213
Pharmaceuticals .....	283	325411, 325412, 325413, 325414

<sup>a</sup> Standard Industrial Classification

<sup>b</sup> North American Industry Classification System. Entities potentially affected by the subject rule for today's action also include State, local, and tribal governments.