

United States Postal Service
Interruption and Emergency under 35 U.S.C. 21(a)

The United States Patent and Trademark Office (USPTO) is designating the interruption in service of the United States Postal Service (USPS) in the areas affected by Hurricane Harvey in Texas and Louisiana, beginning on Friday, August 25, 2017, as a postal service interruption and emergency within the meaning of 35 U.S.C. § 21(a) and 37 CFR 1.10(i) and 2.195(e).

Postal services in Texas and Louisiana have been impacted by Hurricane Harvey in varying degrees beginning on August 25, 2017. To determine whether a post office has been closed or reopened, or postal services have been suspended or resumed in a particular area due to Hurricane Harvey, contact the post office directly or visit the USPS's Web site at: <http://www.usps.gov>. More specific information should be available at <http://about.usps.com/news/service-alerts/welcome.htm>.

Once the USPS, through its Internet Web site, has notified the public that this interruption in the service of the USPS has ended, the designation of this interruption and emergency within the meaning of 35 U.S.C. § 21(a) and 37 CFR 1.10(i) and 2.195(e) will terminate without further notice from the USPTO.

Patent-Related Correspondence

37 CFR 1.10(i) addresses interruptions or emergencies in USPS Priority Mail Express® Post Office to Addressee service that are designated by the Director for patent-related correspondence. Correspondence covered by 37 CFR 1.10 that would have been filed with the USPTO under 37 CFR 1.10 during this USPS service interruption, but which was not filed due to the USPS service interruption, should be filed promptly after the termination of the USPS service interruption with a petition in accordance with 37 CFR 1.10(i) using Priority Mail Express® service in accordance with 37 CFR 1.10.

The provisions of 35 U.S.C. § 21(a) and 37 CFR 1.10(i) apply only to postal interruptions and emergencies. The provisions of 35 U.S.C. § 21(a) and 37 CFR 1.10(i) do not provide for the granting of a filing date to correspondence as of the date on which it would have been filed but for other exigencies, such as the unavailability of an office or building other than a USPS facility. These provisions apply only if the post office was closed or Priority Mail Express® service suspended in the affected areas on the specified date due to Hurricane Harvey. If the provisions set forth in this notice do not apply, relief may be available on petition to the Office. The specific type of petition would depend on the facts of the situation and the relief sought.

37 CFR 1.10(i) provides that any person attempting to file correspondence by Priority Mail Express® Post Office to Addressee service that was unable to be deposited with the USPS due to an interruption or emergency in Priority Mail Express® service, which has been so designated by the Director, may petition the Director to consider such correspondence as filed on a particular date in the Office. 37 CFR 1.10(i) specifically provides that:

Any person attempting to file correspondence under this section that was unable to be deposited with the USPS due to an interruption or emergency in Priority Mail Express® service, which has been so designated by the Director, may petition the Director to consider such correspondence as filed on a particular date in the Office, provided that:

- (1) The petition is filed in a manner designated by the Director promptly after the person becomes aware of the designated interruption or emergency in Priority Mail Express® service;
- (2) The petition includes the original correspondence or a copy of the original correspondence; and
- (3) The petition includes a statement which establishes, to the satisfaction of the Director, that the correspondence would have been deposited with the USPS but for the designated interruption or emergency in Priority Mail Express® service, and that the correspondence or copy of the correspondence is the original correspondence or a true copy of the correspondence originally attempted to be deposited with the USPS on the requested filing date.

Patent-related inquiries concerning this notice may be directed to Eugenia A. Jones, Senior Legal Advisor in the Office of Patent Legal Administration, at (571) 272-7727 or at PatentPractice@uspto.gov.

Trademark-Related Correspondence

37 CFR 2.195(e) addresses interruptions or emergencies in USPS Priority Mail Express® Post Office to Addressee service that are designated by the Director for trademark-related correspondence. Correspondence covered by 37 CFR 2.198 that would have been filed with the USPTO using the Priority Mail Express® Post Office to Addressee service, but which was not filed due to the interruption, should be filed promptly after the termination of the USPS service interruption with a petition in accordance with 37 CFR 2.146 and 2.195(e).

The provisions of 35 U.S.C. § 21(a) and 37 CFR 2.195(e) apply only to postal interruptions and emergencies. These provisions do not provide for the granting of a filing date to correspondence as of the date on which it would have been filed but for other exigencies, such as the unavailability of an office or building other than a USPS facility. These provisions apply only if the post office was closed or Priority Mail Express® service suspended in the affected areas on the specified date due to Hurricane Harvey.

Under 37 CFR 2.195(e), any person attempting to file correspondence by Priority Mail Express® Post Office to Addressee service that was unable to be deposited with the USPS due to the interruption or emergency in Priority Mail Express® service in the areas designated in this notice may petition the Director to consider such correspondence as filed on a particular date in the Office.

The petition must:

- (1) Be filed promptly after the ending of the designated interruption or emergency in Priority Mail Express[®] service;
- (2) Include the original correspondence or a copy of the original correspondence; and
- (3) Include a statement which establishes, to the satisfaction of the Director, that (a) the correspondence would have been deposited with the USPS but for the designated interruption or emergency in Priority Mail Express[®] service, and (b) the correspondence or copy of the correspondence is the original correspondence or a true copy of the correspondence originally attempted to be deposited with the USPS on the requested filing date.

Please note that under 37 CFR 2.101(b)(3), 2.102(a)(1), 2.198(a)(1), and 7.4(b)(2), the Priority Mail Express[®] procedures cannot be used for the following types of correspondence: applications for registration of marks; amendments to allege use under 15 U.S.C. § 1051(c); statements of use under 15 U.S.C. § 1051(d); requests for extension of time to file a statement of use under 15 U.S.C. § 1051(d); affidavits of continued use under 15 U.S.C. § 1058; renewal applications under 15 U.S.C. § 1059; requests to change or correct addresses; combined filings under 15 U.S.C. §§ 1058 and 1059; combined affidavits or declarations under 15 U.S.C. §§ 1058 and 1065; affidavits of continued use under 15 U.S.C. § 1141k; combined affidavits or declarations under 15 U.S.C. §§ 1065 and 1141k; responses to notices of irregularity under 37 CFR 7.14; requests for transformation under 37 CFR 7.31; notices of opposition to applications based on 15 U.S.C. § 1141f(a); and requests for extensions of time to oppose applications based on 15 U.S.C. § 1141f(a). Therefore, it would be inappropriate to file a petition seeking a filing date as of the date of deposit of these types of correspondence as Priority Mail Express[®].

The provisions of 37 CFR 2.195(e) on postal service interruptions or emergencies apply only to Priority Mail Express[®] Post Office to Addressee correspondence, and do not apply to correspondence with a certificate of mailing pursuant to 37 CFR 2.197. Therefore, the petition procedure set forth in this notice is not appropriate for correspondence with a certificate of mailing. However, petitions concerning such correspondence, or other requests for rule waivers, may be considered under 37 CFR 2.146 with the requisite showing of an extraordinary situation, that justice requires relief, and that no other party would be injured thereby.

Trademark-related inquiries concerning this notice may be directed to Catherine Cain, Office of the Deputy Commissioner for Trademark Examination Policy, at (571) 272-8946.

Dated: 9.12.17



Joseph Matal
Performing the Functions and Duties of the
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office