

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After mast-head light less than 1/2 ship's length aft of forward masthead light. Annex I, sec. 3(a)	Percentage horizontal separation attained
USS PEARL HARBOR .....	LSD 52	*	*	X	63.9

Dated: June 26, 1997.

**R.R. Pixa,**

*Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate, General (Admiralty).*

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**DEPARTMENT OF COMMERCE**

**Patent and Trademark Office**

**37 CFR Parts 1 and 2**

[Docket No. 970410086-7174-02]

RIN 0651-AA92

**Revision of Patent and Trademark Fees for Fiscal Year 1998**

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

**ACTION:** Final rule.

**SUMMARY:** The Patent and Trademark Office (PTO) is amending the rules of practice in patent and trademark cases to adjust certain patent fee and trademark service fee amounts to reflect fluctuations in the Consumer Price Index (CPI) and to recover costs of operation.

**EFFECTIVE DATE:** October 1, 1997.

**FOR FURTHER INFORMATION CONTACT:** Matthew Lee by telephone at (703) 305-8051, fax at (703) 305-8007, or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Office of Finance, Crystal Park 1, Suite 802, Washington, DC 20231.

**SUPPLEMENTARY INFORMATION:** This rule change is designed to adjust PTO fees in accordance with the applicable provisions of title 35, United States Code; section 31 of the Trademark (Lanham) Act of 1946 (15 U.S.C. 1113); and section 10101 of the Omnibus Budget Reconciliation Act of 1990 (as amended by section 8001 of Public Law 103-66), all as amended by the Patent and Trademark Office Authorization Act of 1991 (Pub. L. 102-204).

When the "Revision of Patent and Trademark Fees for Fiscal Year 1998" was published as a proposed rule, the PTO assumed that the fee revisions would not become effective until after the "1996 Changes to Patent Practice and Procedure" (hereinafter "Miscellaneous Changes"). See 61 FR 49819 (Sept. 23, 1996) (proposed Miscellaneous Changes rule). The changes proposed in the fee revision notice of proposed rulemaking have been modified to take into account that the fee revision rule will become effective before the Miscellaneous Changes rulemaking.

**Background**

*Statutory Provisions*

Patent fees are authorized by 35 U.S.C. 41 and 35 U.S.C. 376. A fifty percent reduction in the fees paid under 35 U.S.C. 41 (a) and (b) by independent inventors, small business concerns, and nonprofit organizations who meet prescribed definitions is required by 35 U.S.C. 41(h).

Subsection 41(f) of title 35, United States Code, provides that fees established under 35 U.S.C. 41 (a) and (b) may be adjusted on October 1, 1992, and every year thereafter, to reflect fluctuations in the Consumer Price Index (CPI) over the previous twelve months.

Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (amended by section 8001 of Public Law 103-66) provides that there shall be a surcharge on all fees established under 35 U.S.C. 41(a) and (b) to collect \$119 million in fiscal year 1998.

Subsection 41(d) of title 35, United States Code, authorizes the Commissioner to establish fees for all other processing, services, or materials related to patents to recover the average cost of providing these services or materials, except for the fees for recording a document affecting title, for

each photocopy, and for each black and white copy of a patent.

Section 376 of title 35, United States Code, authorizes the Commissioner to set fees for patent applications filed under the Patent Cooperation Treaty (PCT).

Subsection 41(g) of title 35, United States Code, provides that new fee amounts established by the Commissioner under section 41 may take effect thirty days after notice in the **Federal Register** and the Official Gazette of the Patent and Trademark Office.

Section 31 of the Trademark (Lanham) Act of 1946, as amended (15 U.S.C. 1113), authorizes the Commissioner to establish fees for the filing and processing of an application for the registration of a trademark or other mark, and for all other services and materials relating to trademarks and other marks.

Section 31(a) of the Trademark (Lanham) Act of 1946 (15 U.S.C. 1113(a)), as amended, allows trademark fees to be adjusted once each year to reflect, in the aggregate, any fluctuations during the preceding twelve months in the CPI.

Section 31 also allows new trademark fee amounts to take effect thirty days after notice in the **Federal Register** and the Official Gazette of the Patent and Trademark Office.

*Recovery Level Determinations*

This rule adjusts patent fee and trademark service fee amounts for a planned recovery of \$763,391,000 in fiscal year 1998, as proposed in the Administration's budget request to the Congress.

The patent statutory fees established by 35 U.S.C. 41 (a) and (b) will be adjusted on October 1, 1997, to reflect any fluctuations occurring during the previous twelve months in the Consumer Price Index for all urban consumers (CPI-U). In calculating these

fluctuations, the Office of Management and Budget (OMB) has determined that the PTO should use CPI-U data as determined by the Secretary of Labor. However, the Department of Labor does not make public the CPI-U until approximately twenty-one days after the end of the month being calculated. Therefore, the latest CPI-U information available is for the month of June 1997. In accordance with previous rulemaking methodology, the PTO uses the Administration's projected CPI-U for the twelve-month period ending September 30, 1997, which is 2.6 percent. Based on this projection, patent statutory fees will be adjusted by 2.6 percent. Before the final fee schedule is published, the fees may be adjusted slightly based on updated data available from the Department of Labor.

Certain non-statutory patent processing fees established under 35 U.S.C. 41(d) and PCT processing fees established under 35 U.S.C. 376 will be adjusted to recover their estimated average costs in fiscal year 1998.

Three patent service fees that are set by statute will not be adjusted. The three fees that are not being adjusted are assignment recording fees, printed patent copy fees and photocopy charge fees.

Certain trademark service fees established under 15 U.S.C. 1113 will be adjusted to recover their estimated average costs in fiscal year 1998.

The fee amounts were rounded by applying standard arithmetic rules so that the amounts rounded would be convenient to the user. Fees of \$100 or more were rounded to the nearest \$10. Fees between \$2 and \$99 were rounded to an even number so that any comparable small entity fee would be a whole number.

#### *Workload Projections*

Determination of workload varies by fee. Principal workload projection techniques are as follows:

Patent application workloads are projected from statistical regression models using recent application filing trends. Patent issues are projected from an in-house patent production model and reflect examiner production achievements and goals. Patent maintenance fee workloads utilize patents issued 3.5, 7.5 and 11.5 years prior to payment and assume payment rates of 78 percent, 54 percent and 32 percent, respectively. Service fee workloads follow linear trends from prior years' activities.

#### *General Procedures*

Any fee amount that is paid on or after the effective date of the proposed

fee increase would be subject to the new fees then in effect. For purposes of determining the amount of the fee to be paid, the date of mailing indicated on a proper Certificate of Mailing or Transmission, where authorized under 37 CFR 1.8, will be considered to be the date of receipt in the PTO. A Certificate of Mailing or Transmission under § 1.8 is not proper for items which are specifically excluded from the provisions of § 1.8. Section 1.8 should be consulted for those items for which a Certificate of Mailing or Transmission is not proper. Such items include, inter alia, the filing of national and international applications for patents and the filing of trademark applications. However, the provisions of 37 CFR 1.10 relating to filing papers and fees using the "Express Mail" service of the United States Postal Service (USPS) do apply to any paper or fee (including patent and trademark applications) to be filed in the PTO. If an application or fee is filed by "Express Mail" with a date of deposit with the USPS (shown by the "date in" on the "Express Mail" mailing label) which is dated on or after the effective date of the rules, as amended, the amount of the fee to be paid would be the fee established by the amended rules.

In order to ensure clarity in the implementation of the new fees, a discussion of specific sections is set forth below.

#### **Discussion of Specific Rules**

##### *37 CFR 1.16 National Application Filing Fees*

Section 1.16, paragraphs (a), (b), (d), and (f) through (i), is revised to adjust fees established therein to reflect fluctuations in the CPI.

##### *37 CFR 1.17 Patent Application Processing Fees*

Section 1.17, paragraphs (b) through (g), (m), (r) and (s), is revised to adjust fees established therein to reflect fluctuations in the CPI.

Section 1.17, paragraphs (j) and (n) through (p), is revised to adjust fees established therein to recover costs.

##### *37 CFR 1.18 Patent Issue Fees*

Section 1.18, paragraphs (a) through (c), is revised to adjust fees established therein to reflect fluctuations in the CPI.

##### *37 CFR 1.19 Document Supply Fees*

Section 1.19, paragraphs (a)(2) and (a)(3), is revised to adjust fees established therein to recover costs.

##### *37 CFR 1.20 Post-Issuance Fees*

Section 1.20, paragraphs (c), (i), and (j), is revised to adjust fees established therein to recover costs.

Section 1.20, paragraphs (e) through (g), is revised to adjust fees established therein to reflect fluctuations in the CPI.

##### *37 CFR 1.21 Miscellaneous Fees and Charges*

Section 1.21, paragraphs (a)(1)(ii), (a)(6) and (j), is revised to adjust fees established therein to recover costs.

##### *37 CFR 1.445 International Application Filing, Processing, and Search Fees*

Section 1.445, paragraph (a), is revised to adjust the fees authorized by 35 U.S.C. 376 to recover costs and reflect current business practices.

##### *37 CFR 1.482 International Preliminary Examination Fees*

Section 1.482, paragraphs (a)(1)(i), (a)(1)(ii), and (a)(2)(ii), is revised to adjust the fees authorized by 35 U.S.C. 376 to recover costs.

##### *37 CFR 1.492 National Stage Fees*

Section 1.492, paragraphs (a), (b) and (d), is revised to adjust fees established therein to reflect fluctuations in the CPI.

##### *37 CFR 2.6 Trademark Fees*

Section 2.6, paragraphs (b)(4) and (b)(10), is revised to adjust fees established therein to recover costs.

#### **Response to Comments on the Rules**

A notice of proposed rulemaking to adjust patent fee and trademark service fee amounts was published in the **Federal Register** on May 7, 1997, at 62 FR 24865 and in the Official Gazette of the United States Patent and Trademark Office on May 27, 1997, at 1198 OG 97.

*Comment:* A respondent stated that many of the elements comprising the U.S. Department of Labor's Consumer Price Index (CPI) have no effect on PTO's costs of operation. The respondent also stated that fee increases should reflect only that portion of the CPI affecting PTO's costs of operation.

*Response:* The PTO is required by law to base its inflationary fee increases on fluctuations in the CPI over the twelve months prior to the effective date of the fee increase. While it is true that some of the elements that constitute the CPI have no effect on the cost of operations of the PTO, the CPI itself has considerable impact on the PTO. Salary increases for Federal employees have increased at rates that closely match the CPI, and employee compensation alone accounts for over 55 percent of PTO's annual costs. The PTO, just like any

other public or private organization, must procure supplies, pay rent and utilities, and incur numerous other expenses in the course of operations. Unfortunately, these costs rarely decline with each passing year.

*Comment:* A respondent stated that the PTO should adjust fees that are less than \$100 in increments of at least \$5 to avoid having amounts which make the calculation of fees inconvenient to the users.

*Response:* In the Recovery Level Determinations section of this rule package, it states that "Fees between \$2 and \$99 were rounded to an even number so that any comparable small entity fee would be a whole number." This rounding methodology enables the PTO to set large and small entity fee amounts which are convenient overall to the users.

**Other Considerations**

This rulemaking contains no information collection within the meaning of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* This rule has been determined to be not significant for purposes of Executive Order 12866. The PTO has determined that this rule change has no Federalism implications affecting the relationship between the National Government and the States as outlined in Executive Order 12612.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration, that the rule change would not have a significant impact on a substantial number of small entities (Regulatory Flexibility Act, 5 U.S.C. 605(b)). The rule change increases fees to reflect the change in the CPI as authorized by 35 U.S.C. 41(f). Further, the principal impact of the major patent fees has already been taken into account in 35 U.S.C. 41(h), which provides small entities with a fifty percent reduction in the major patent fees.

A comparison of existing and new fee amounts is included as an Appendix to this final rule.

**Lists of Subjects**

*37 CFR Part 1*

Administrative practice and procedure, Inventions and patents, Reporting and record keeping requirements, Small businesses.

*37 CFR Part 2*

Administrative practice and procedure, Courts, Lawyers, Trademarks  
For the reasons set forth in the preamble, the PTO is amending title 37

of the Code of Federal Regulations, Parts 1 and 2, as set forth below.

**PART 1—RULES OF PRACTICE IN PATENT CASES**

1. The authority citation for 37 CFR part 1 would continue to read as follows:

**Authority:** 35 U.S.C. 6, unless otherwise noted.

2. Section 1.16 is amended by revising paragraphs (a), (b), (d), and (f) through (i) to read as follows:

**§ 1.16 National application filing fees.**

(a) Basic fee for filing each application for an original patent, except provisional, design or plant applications:

By a small entity (§ 1.9(f)).....\$395.00  
By other than a small entity .....\$790.00

(b) In addition to the basic filing fee in an original application, except provisional applications, for filing or later presentation of each independent claim in excess of 3:

By a small entity (§ 1.9(f)).....\$41.00  
By other than a small entity .....\$82.00

\* \* \* \* \*

(d) In addition to the basic filing fee in an original application, except provisional applications, if the application contains, or is amended to contain, a multiple dependent claim(s), per application:

By a small entity (§ 1.9(f)).....\$135.00  
By other than a small entity .....\$270.00

\* \* \* \* \*

(f) Basic fee for filing each design application:

By a small entity (§ 1.9(f)).....\$165.00  
By other than a small entity .....\$330.00

(g) Basic fee for filing each plant application, except provisional applications:

By a small entity (§ 1.9(f)).....\$270.00  
By other than a small entity .....\$540.00

(h) Basic fee for filing each reissue application:

By a small entity (§ 1.9(f)).....\$395.00  
By other than a small entity .....\$790.00

(i) In addition to the basic filing fee in a reissue application, for filing or later presentation of each independent claim which is in excess of the number of independent claims in the original patent:

By a small entity (§ 1.9(f)).....\$41.00  
By other than a small entity .....\$82.00

\* \* \* \* \*

3. Section 1.17 is amended by revising paragraphs (b) through (g), (j), (m) through (p), (r), and (s) to read as follows:

**§ 1.17 Patent application processing fees.**

\* \* \* \* \*

(b) Extension fee for response within second month pursuant to § 1.136(a):

By a small entity (§ 1.9(f)).....\$200.00  
By other than a small entity .....\$400.00

(c) Extension fee for response within third month pursuant to § 1.136(a):

By a small entity (§ 1.9(f)).....\$475.00  
By other than a small entity .....\$950.00

(d) Extension fee for response within fourth month pursuant to § 1.136(a):

By a small entity (§ 1.9(f)).....\$755.00  
By other than a small entity .....\$1,510.00

(e) For filing a notice of appeal from the examiner to the Board of Patent Appeals and Interferences:

By a small entity (§ 1.9(f)).....\$155.00  
By other than a small entity .....\$310.00

(f) In addition to the fee for filing a notice of appeal, for filing a brief in support of an appeal:

By a small entity (§ 1.9 (f)).....\$155.00  
By other than a small entity .....\$310.00

(g) For filing a request for an oral hearing before the Board of Patent Appeals and Interferences in an appeal under 35 U.S.C. 134:

By a small entity (§ 1.9(f)).....\$135.00  
By other than a small entity .....\$270.00

\* \* \* \* \*

(j) For filing a petition to institute a public use proceeding under

§ 1.292 .....\$1,510.00

\* \* \* \* \*

(m) or filing a petition:  
(1) For revival of an unintentionally abandoned application, or (2) For the unintentionally delayed payment of the fee for issuing a patent:

By a small entity (§ 1.9(f)).....\$660.00  
By other than a small entity .....\$1,320.00

(n) For requesting publication of a statutory invention registration prior to the mailing of the first examiner's action pursuant to § 1.104—\$920.00 reduced by the amount of the application basic filing fee paid.

(o) For requesting publication of a statutory invention registration after the mailing of the first examiner's action pursuant to § 1.104—\$1,840.00 reduced by the amount of the application basic filing fee paid.

(p) For submission of an information disclosure statement under

§ 1.97(c) .....\$240.00

\* \* \* \* \*

(r) For entry of a submission after final rejection under § 1.129(a):

By a small entity (§ 1.9(f)).....\$395.00  
By other than a small entity .....\$790.00

(s) For each additional invention requested to be examined under § 1.129(b):

By a small entity (§ 1.9(f)).....\$395.00  
By other than a small entity .....\$790.00

4. Section 1.18 is revised to read as follows:

**§ 1.18 Patent issue fees.**

(a) Issue fee for issuing each original or reissue patent, except a design or plant patent:

By a small entity (§ 1.9(f)).....\$660.00  
By other than a small entity .....\$1,320.00

(b) Issue fee for issuing a design patent:

By a small entity (§ 1.9(f)).....\$225.00  
By other than a small entity .....\$450.00

(c) Issue fee for issuing a plant patent:

By a small entity (§ 1.9(f)).....\$335.00  
By other than a small entity .....\$670.00

5. Section 1.19 is amended by revising paragraphs (a)(2) and (a)(3) to read as follows:

**§ 1.19 Document supply fees.**

(a) \* \* \*

(2) Printed copy of a plant patent in

color .....\$15.00  
 (3) Copy of a utility patent or statutory  
 invention registration containing  
 color drawing (see § 1.84(a)(2)) .....\$25.00  
 \* \* \* \* \*

6. Section 1.20 is amended by revising paragraphs (c), (e) through (g), (i)(1), (i)(2), and (j)(1) through (j)(3) to read as follows:

**§ 1.20 Post issuance fees.**

\* \* \* \* \*  
 (c) For filing a request for reexamination (§ 1.510(a)) .....\$2,520.00  
 \* \* \* \* \*

(e) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after December 12, 1980, in force beyond four years; the fee is due by three years and six months after the original grant:  
 By a small entity (§ 1.9(f)) .....\$525.00  
 By other than a small entity .....\$1,050.00

(f) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after December 12, 1980, in force beyond eight years; the fee is due by seven years and six months after the original grant:  
 By a small entity (§ 1.9(f)) .....\$1,050.00  
 By other than a small entity .....\$2,100.00

(g) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after December 12, 1980, in force beyond twelve years; the fee is due by eleven years and six months after the original grant:  
 By a small entity (§ 1.9(f)) .....\$1,580.00  
 By other than a small entity .....\$3,160.00  
 \* \* \* \* \*

(i) \* \* \*  
 (1) Unavoidable .....\$700.00  
 (2) Unintentional .....\$1,640.00  
 (j) \* \* \*  
 (1) Application for extension under § 1.740 .....\$1,120.00  
 (2) Initial application for interim extension under § 1.790 .....\$420.00  
 (3) Subsequent application for interim extension under § 1.790 .....\$220.00

7. Section 1.21 is amended by revising paragraphs (a)(1)(ii), (a)(6) and (j) to read as follows:

**§ 1.21 Miscellaneous fees and charges.**

(a) \* \* \*  
 (1) \* \* \*  
 (ii) Registration examination fee .....\$310.00  
 \* \* \* \* \*

(6) For requesting regrading of an examination under § 10.7(c):  
 (i) Regrading of morning section (PTO Practice and Procedure) .....\$230.00  
 (ii) Regrading of afternoon section (Claim Drafting) .....\$540.00  
 \* \* \* \* \*  
 (j) Labor charges for services, per hour or fraction thereof .....\$40.00  
 \* \* \* \* \*

8. Section 1.445 is amended by revising paragraph (a) to read as follows:

**§ 1.445 International application filing, processing and search fees.**

(a) The following fees and charges for international applications are established by the Commissioner under the authority of 35 U.S.C. 376:

(1) A transmittal fee (see 35 U.S.C. 361(d) and PCT Rule 14) .....\$240.00  
 (2) A search fee (see 35 U.S.C. 361(d) and PCT Rule 16):  
 (i) Where a corresponding prior United States National application filed under 35 U.S.C. 111(a) with the filing fee under 37 CFR 1.16(a) has been filed .....\$450.00  
 (ii) For all situations not provided for in (a)(2)(i) of this section .....\$700.00  
 (3) A supplemental search fee when required, per additional invention .....\$210.00  
 \* \* \* \* \*

9. Section 1.482 is amended by revising paragraphs (a)(1)(i), (a)(1)(ii), and (a)(2)(ii) to read as follows:

**§ 1.482 International preliminary examination fees.**

(a) \* \* \*  
 (1) \* \* \*  
 (i) Where an international search fee as set forth in § 1.445(a)(2) has been paid on the international application to the United States Patent and Trademark Office as an International Searching Authority, a preliminary examination fee of .....\$490.00  
 (ii) Where the International Searching Authority for the international application was an authority other than the United States Patent and Trademark Office, a preliminary examination fee of .....\$750.00  
 (2) \* \* \*  
 (ii) Where the International Searching Authority for the international application was an authority other than the United States Patent and Trademark Office .....\$270.00  
 \* \* \* \* \*

10. Section 1.492 is amended by revising paragraphs (a), (b) and (d) to read as follows:

**§ 1.492 National stage fees.**

\* \* \* \* \*  
 (a) The basic national fee:  
 (1) Where an international preliminary examination fee as set forth in § 1.482 has been paid on the international application to the United States Patent and Trademark Office:  
 By a small entity (§ 1.9(f)) .....\$360.00  
 By other than a small entity .....\$720.00  
 (2) Where no international preliminary examination fee as set forth in § 1.482 has been paid to the United States Patent and Trademark Office, but an international search fee as set forth in § 1.445(a)(2) has been paid on the international application to the United States Patent and Trademark Office as an International Searching Authority:  
 By a small entity (§ 1.9(f)) .....\$395.00  
 By other than a small entity .....\$790.00

(3) Where no international preliminary examination fee as set forth in § 1.482 has been paid and no international search fee as set forth in § 1.445(a)(2) has been paid on the international application to the United States Patent and Trademark Office:

By a small entity (§ 1.9(f)) .....\$535.00  
 By other than a small entity .....\$1,070.00

(4) Where an international preliminary examination fee as set forth in § 1.482 has been paid to the United States Patent and Trademark Office and the international preliminary examination report states that the criteria of novelty, inventive step (non-obviousness), and industrial applicability, as defined in PCT Article 33 (1) to (4) have been satisfied for all the claims presented in the application entering the national stage (see § 1.496(b)):

By a small entity (§ 1.9(f)) .....\$49.00  
 By other than a small entity .....\$98.00

(5) Where a search report on the international application has been prepared by the European Patent Office or the Japanese Patent Office:

By a small entity (§ 1.9(f)) .....\$465.00  
 By other than a small entity .....\$930.00

(b) In addition to the basic national fee, for filing or later presentation of each independent claim in excess of 3:

By a small entity (§ 1.9(f)) .....\$41.00  
 By other than a small entity .....\$82.00  
 \* \* \* \* \*

(d) In addition to the basic national fee, if the application contains, or is amended to contain, a multiple dependent claim(s), per application:

By a small entity (§ 1.9(f)) .....\$135.00  
 By other than a small entity .....\$270.00  
 \* \* \* \* \*

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

1. The authority citation for 37 CFR Part 2 would continue to read as follows:

**Authority:** 15 U.S.C. 1123; 35 U.S.C. 6, unless otherwise noted.

2. Section 2.6 is amended by revising paragraphs (b)(4) and (b)(10) to read as follows:

**§ 2.6 Trademark fees.**

\* \* \* \* \*  
 (b) Trademark service fees.  
 \* \* \* \* \*  
 (4) Certified copy of a registered mark, showing title and/or status:  
 (i) Regular service .....\$15.00  
 (ii) Expedited local service .....\$30.00  
 \* \* \* \* \*  
 (10) Labor charges for services, per hour or fraction thereof .....\$40.00  
 \* \* \* \* \*

Dated: July 22, 1997.

**Bruce A. Lehman,**  
*Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.*

**Note**—The following appendix is provided as a courtesy to the public, but is not a

substitute for the rules. It will not appear in the Code of Federal Regulations.

Appendix A—Comparison of Existing and Revised Fee Amounts

37 CFR Sec.	Description	Pre-Oct 1997	Oct 1997
1.16(a)	Basic Filing Fee	\$770	\$790
1.16(a)	Basic Filing Fee (Small Entity)	385	395
1.16(b)	Independent Claims	80	82
1.16(b)	Independent Claims (Small Entity)	40	41
1.16(c)	Claims in Excess of 20	22	—
1.16(c)	Claims in Excess of 20 (Small Entity)	11	—
1.16(d)	Multiple Dependent Claims	260	270
1.16(d)	Multiple Dependent Claims (Small Entity)	130	135
1.16(e)	Surcharge—Late Filing Fee	130	—
1.16(e)	Surcharge—Late Filing Fee (Small Entity)	65	—
1.16(f)	Design Filing Fee	320	330
1.16(f)	Design Filing Fee (Small Entity)	160	165
1.16(g)	Plant Filing Fee	530	540
1.16(g)	Plant Filing Fee (Small Entity)	265	270
1.16(h)	Reissue Filing Fee	770	790
1.16(h)	Reissue Filing Fee (Small Entity)	385	395
1.16(i)	Reissue Independent Claims	80	82
1.16(i)	Reissue Independent Claims (Small Entity)	40	41
1.16(j)	Reissue Claims in Excess of 20	22	—
1.16(j)	Reissue Claims in Excess of 20 (Small Entity)	11	—
1.16(k)	Provisional Application Filing Fee	150	—
1.16(k)	Provisional Application Filing Fee (Small Entity)	75	—
1.16(l)	Surcharge—Incomplete Provisional App. Filed	50	—
1.16(l)	Surcharge—Incomplete Provisional App. Filed (Small Entity)	25	—
1.17(a)	Extension—First Month	110	—
1.17(a)	Extension—First Month (Small Entity)	55	—
1.17(b)	Extension—Second Month	390	400
1.17(b)	Extension—Second Month (Small Entity)	195	200
1.17(c)	Extension—Third Month	930	950
1.17(c)	Extension—Third Month (Small Entity)	465	475
1.17(d)	Extension—Fourth Month	1,470	1,510
1.17(d)	Extension—Fourth Month (Small Entity)	735	755
1.17(e)	Notice of Appeal	300	310
1.17(e)	Notice of Appeal (Small Entity)	150	155
1.17(f)	Filing a Brief	300	310
1.17(f)	Filing a Brief (Small Entity)	150	155
1.17(g)	Request for Oral Hearing	260	270
1.17(g)	Request for Oral Hearing (Small Entity)	130	135
1.17(h)	Petition—Not All Inventors	130	—
1.17(h)	Petition—Correction of Inventorship	130	—
1.17(h)	Petition—Decision on Questions	130	—
1.17(h)	Petition—Suspend Rules	130	—
1.17(h)	Petition—Expedited License	130	—
1.17(h)	Petition—Scope of License	130	—
1.17(h)	Petition—Retroactive License	130	—
1.17(h)	Petition—Refusing Maintenance Fee	130	—
1.17(h)	Petition—Refusing Maintenance Fee—Expired Patent	130	—
1.17(h)	Petition—Interference	130	—
1.17(h)	Petition—Reconsider Interference	130	—
1.17(h)	Petition—Late Filing of Interference	130	—
1.20(b)	Petition—Correction of Inventorship	130	—
1.17(h)	Petition—Refusal to Publish SIR	130	—
1.17(i)	Petition—For Assignment	130	—
1.17(i)	Petition—For Application	130	—
1.17(i)	Petition—Late Priority Papers	130	—
1.17(i)	Petition—Suspend Action	130	—
1.17(i)	Petition—Divisional Reissues to Issue Separately	130	—
1.17(i)	Petition—For Interference Agreement	130	—
1.17(i)	Petition—Amendment After Issue	130	—
1.17(i)	Petition—Withdrawal After Issue	130	—
1.17(i)	Petition—Defer Issue	130	—
1.17(i)	Petition—Issue to Assignee	130	—
1.17(i)	Petition—Accord a Filing Date Under § 1.53	130	—
1.17(i)	Petition—Accord a Filing Date Under § 1.62	130	—
1.17(i)	Petition—Make Application Special	130	—
1.17(j)	Petition—Public Use Proceeding	1,470	1,510
1.17(k)	Non-English Specification	130	—

37 CFR Sec.	Description	Pre-Oct 1997	Oct 1997
1.17(l)	Petition—Revive Abandoned Appl.	110	—
1.17(l)	Petition—Revive Abandoned Appl. (Small Entity)	55	—
1.17(m)	Petition—Revive Unintentionally Abandoned Appl.	1,290	1,320
1.17(m)	Petition—Revive Unintent Abandoned Appl. (Small entity)	645	660
1.17(n)	SIR—Prior to Examiner's Action	900	920
1.17(o)	SIR—After Examiner's Action	1,790	1,840
1.17(p)	Submission of an Information Disclosure Statement (§ 1.197)	230	240
1.17(q)	Petition—Correction of Inventorship (Prov. App.)	50	—
1.17(q)	Petition—Accord a filing date (Prov. App.)	50	—
1.17(q)	Petition—Entry of submission after final rejection (Prov. App.)	50	—
1.17(r)	Filing a submission after final rejection (1.129(a))	770	790
1.17(r)	Filing a submission after final rejection (1.129(a)) (Small Entity)	385	395
1.17(s)	Per add'l invention to be examined (1.129(b))	770	790
1.17(s)	Per add'l invention to be examined (1.129(b)) (Small Entity)	385	395
1.18(a)	Issue Fee	1,290	1,320
1.18(a)	Issue Fee (Small Entity)	645	660
1.18(b)	Design Issue Fee	440	450
1.18(b)	Design Issue Fee (Small Entity)	220	225
1.18(c)	Plant Issue Fee	650	670
1.18(c)	Plant Issue Fee (Small Entity)	325	335
1.19(a)(1)(i)	Copy of Patent	3	—
1.19(a)(1)(ii)	Patent Copy—Overnight delivery to PTO Box or overnight fax	6	—
1.19(a)(1)(iii)	Patent Copy Ordered by Expedited Mail or Fax—Exp. service	25	—
1.19(a)(2)	Plant Patent Copy	12	15
1.19(a)(3)(i)	Copy of Utility Patent or SIR in Color	24	25
1.19(b)(1)(i)	Certified Copy of Patent Application as Filed	15	—
1.19(b)(1)(ii)	Certified Copy of Patent Application as Filed, Expedited	30	—
1.19(b)(2)	Cert. or Uncert. Copy of Patent-Related File Wrapper/Contents	150	—
1.19(b)(3)	Cert. or Uncert. Copies of Office Records, Per Document	25	—
1.19(b)(4)	For Assignment Records, Abstract of Title and Certification	25	—
1.19(c)	Library Service	50	—
1.19(d)	List of Patents in Subclass	3	—
1.19(e)	Uncertified Statement—Status of Maintenance Fee Payment	10	—
1.19(f)	Copy of Non-U.S. Patent Document	25	—
1.19(g)	Comparing and Certifying Copies, Per Document, Per Copy	25	—
1.19(h)	Duplicate or Corrected Filing Receipt	25	—
1.20(a)	Certificate of Correction	100	—
1.20(c)	Reexamination	2,460	2,520
1.20(d)	Statutory Disclaimer	110	—
1.20(d)	Statutory Disclaimer (Small Entity)	55	—
1.20(e)	Maintenance Fee—3.5 Years	1,020	1,050
1.20(e)	Maintenance Fee—3.5 Years (Small Entity)	510	525
1.20(f)	Maintenance Fee—7.5 Years	2,050	2,100
1.20(f)	Maintenance Fee—7.5 Years (Small Entity)	1,025	1,050
1.20(g)	Maintenance Fee—11.5 Years	3,080	3,160
1.20(g)	Maintenance Fee—11.5 Years (Small Entity)	1,540	1,580
1.20(h)	Surcharge—Maintenance Fee—6 Months	130	—
1.20(h)	Surcharge—Maintenance Fee—6 Months (Small Entity)	65	—
1.20(i)(1)	Surcharge—Maintenance After Expiration—Unavoidable	680	700
1.20(i)(2)	Surcharge—Maintenance After Expiration—Unintentional	1,600	1,640
1.20(j)(1)	Extension of Term of Patent Under 1.740	1,090	1,120
1.20(j)(2)	Initial Application for Interim Extension Under 1.790	410	420
1.20(j)(3)	Subsequent Application for Interim Extension Under 1.790	210	220
1.21(a)(1)(i)	Application Fee (non-refundable)	40	—
1.21(a)(1)(ii)	Registration examination fee	300	310
1.21(a)(2)	Registration to Practice	100	—
1.21(a)(3)	Reinstatement to Practice	40	—
1.21(a)(4)	Certificate of Good Standing	10	—
1.21(a)(4)	Certificate of Good Standing, Suitable Framing	20	—
1.21(a)(5)	Review of Decision of Director, OED	130	—
1.21(a)(6)(i)	Regrading of A.M. section (PTO Practice and Procedure)	225	230
1.21(a)(6)(ii)	Regrading of P.M. section (Claim Drafting)	530	540
1.21(b)(1)	Establish Deposit Account	10	—
1.21(b)(2)	Service Charge Below Minimum Balance	25	—
1.21(b)(3)	Service Charge Below Minimum Balance	25	—
1.21(c)	Filing a Disclosure Document	10	—
1.21(d)	Box Rental	50	—
1.21(e)	International Type Search Report	40	—
1.21(g)	Self-Service Copy Charge	25	—
1.21(h)	Recording Patent Property	40	—
1.21(i)	Publication in the OG	25	—
1.21(j)	Labor Charges for Services	30	40
1.21(k)	Unspecified Other Services	(1)	—

37 CFR Sec.	Description	Pre-Oct 1997	Oct 1997
1.21(k)	Terminal Use APS—CSIR (per hour)	50	—
1.21(l)	Retaining abandoned application	130	—
1.21(m)	Processing Returned Checks	50	—
1.21(n)	Handling Fee—Incomplete Application	130	—
1.21(o)	Terminal Use APS-TEXT	40	—
1.24	Coupons for Patent and Trademark Copies	3	—
1.296	Handling Fee—Withdrawal SIR	130	—
1.445(a)(1)	Transmittal Fee	230	240
1.445(a)(2)(i)	PCT Search Fee—Prior U.S. Application	440	450
1.445(a)(2)(ii)	PCT Search Fee—No U.S. Application	680	700
1.445(a)(3)	Supplemental Search	200	210
1.482(a)(1)(i)	Preliminary Exam Fee	480	490
1.482(a)(1)(ii)	Preliminary Exam Fee	730	750
1.482(a)(2)(i)	Additional Invention	140	—
1.482(a)(2)(ii)	Additional Invention	260	270
1.492(a)(1)	Preliminary Examining Authority	700	720
1.492(a)(1)	Preliminary Examining Authority (Small Entity)	350	360
1.492(a)(2)	Searching Authority	770	790
1.492(a)(2)	Searching Authority (Small Entity)	385	395
1.492(a)(3)	PTO Not ISA nor IPEA	1,040	1,070
1.492(a)(3)	PTO Not ISA nor IPEA (Small Entity)	520	535
1.492(a)(4)	Claims—IPEA	96	98
1.492(a)(4)	Claims—IPEA (Small Entity)	48	49
1.492(a)(5)	Filing with EPO/JPO Search Report	910	930
1.492(a)(5)	Filing with EPO/JPO Search Report (Small Entity)	455	465
1.492(b)	Claims—Extra Individual (Over 3)	80	82
1.492(b)	Claims—Extra Individual (Over 3) (Small Entity)	40	41
1.492(c)	Claims—Extra Total (Over 20)	22	—
1.492(c)	Claims—Extra Total (over 20) (Small Entity)	11	—
1.492(d)	Claims—Multiple Dependents	260	270
1.492(d)	Claims—Multiple Dependents (Small Entity)	130	135
1.492(e)	Surcharge	130	—
1.492(e)	Surcharge (Small Entity)	65	—
1.492(f)	English Translation—After 20 Months	130	—
2.6(a)(1)	Application for Registration, Per Class	245	—
2.6(a)(2)	Amendment to Allege Use, Per Class	100	—
2.6(a)(3)	Statement of Use, Per Class	100	—
2.6(a)(4)	Extension for Filing Statement of Use, Per Class	100	—
2.6(a)(5)	Application for Renewal, Per Class	300	—
2.6(a)(6)	Surcharge for Late Renewal, Per Class	100	—
2.6(a)(7)	Publication of Mark Under § 12(c), Per Class	100	—
2.6(a)(8)	Issuing New Certificate of Registration	100	—
2.6(a)(9)	Certificate of Correction of Registrant's Error	100	—
2.6(a)(10)	Filing Disclaimer to Registration	100	—
2.6(a)(11)	Filing Amendment to Registration	100	—
2.6(a)(12)	Filing Affidavit Under Section, 8 Per Class	100	—
2.6(a)(13)	Filing Affidavit Under Section 15, Per Class	100	—
2.6(a)(14)	Filing Affidavit Under Sections 8 & 15, Per Class	200	—
2.6(a)(15)	Petitions to the Commissioner	100	—
2.6(a)(16)	Petition to Cancel, Per Class	200	—
2.6(a)(17)	Notice of Opposition, Per Class	200	—
2.6(a)(18)	Ex Parte Appeal to the TTAB, Per Class	100	—
2.6(a)(19)	Dividing an Application, Per New Application Created	100	—
2.6(b)(1)(i)	Copy of Registered Mark	3	—
2.6(b)(1)(ii)	Copy of Registered Mark, overnight delivery to PTO box or fax	6	—
2.6(b)(1)(iii)	Copy of Reg. Mark Ordered Via Exp. Mail or Fax, Exp. Svc	25	—
2.6(b)(2)(i)	Certified Copy of TM Application as Filed	15	—
2.6(b)(2)(ii)	Certified Copy of TM Application as Filed, Expedited	30	—
2.6(b)(3)	Cert. or Uncert. Copy of TM-Related File Wrapper/Contents	50	—
2.6(b)(4)(i)	Cert. Copy of Registered Mark, Title or Status	10	15
2.6(b)(4)(ii)	Cert. Copy of Registered Mark, Title or Status—Expedited	20	30
2.6(b)(5)	Certified or Uncertified Copy of TM Records	25	—
2.6(b)(6)	Recording Trademark Property, Per Mark, Per Document	40	—
2.6(b)(6)	For Second and Subsequent Marks in Same Document	25	—
2.6(b)(7)	For Assignment Records, Abstracts of Title and Cert	25	—
2.6(b)(8)	Terminal Use X-SEARCH	40	—
2.6(b)(9)	Self-Service Copy Charge	0.25	—
2.6(b)(10)	Labor Charges for Services	30	—
2.6(b)(11)	Unspecified Other Services	1	—

—These fees are not affected by this rulemaking.

<sup>1</sup> Actual cost.

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BILLING CODE 3501-16-U-M

## LIBRARY OF CONGRESS

### Copyright Office

#### 37 CFR Part 201

#### Copyright Rules and Regulations

**AGENCY:** Copyright Office, Library of Congress.  
**ACTION:** Correction; technical amendments.

**SUMMARY:** The Copyright Office is making one correction to the non-substantive housekeeping amendments to its regulations published in the **Federal Register** July 1, 1997. The correction amends the address for the Licensing Division of the Copyright Office.

**EFFECTIVE DATE:** July 29, 1997.

**FOR FURTHER INFORMATION CONTACT:** Marilyn J. Kretsinger, Assistant General Counsel, or Patricia L. Sinn, Senior Attorney, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024. Telephone: (202) 707-8380. Fax: (202) 707-8366.

**SUPPLEMENTARY INFORMATION:** The Copyright Office is correcting the address it published for the Office's Licensing Division in the July 1, 1997, edition of the **Federal Register**. The corrected address is effective immediately, and will appear in the Code of Federal Regulations at 37 CFR 201.1(b) as soon as possible.

#### List of Subjects in 37 CFR Part 201

Copyright, General Provisions.

#### Final Rule

Accordingly, 37 CFR Chapter II is corrected by making the following correction and amendment.

#### PART 201—GENERAL PROVISIONS

1. The authority citation for Part 201 continues to read as follows:

**Authority:** 17 U.S.C. 702, 17 U.S.C. 1003.

##### § 201.1 [Amended]

2. Section 201.1(b) is amended by removing "Licensing Division, LM-454, Library of Congress, Copyright Office, 101 Independence Avenue, SE., Washington, DC 20559-6000." and adding in its place "Library of Congress, Copyright Office, Licensing Division, 101 Independence Avenue, SE., Washington, DC 20557-6400."

Dated: July 23, 1997.

**Marilyn J. Kretsinger,**

*Assistant General Counsel.*

[FR Doc. 97-19904 Filed 7-28-97; 8:45 am]

BILLING CODE 1410-30-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[MD 038-3016; FRL-5864-9]

#### Approval and Promulgation of Air Quality Implementation Plans; Maryland; 15% Rate of Progress Plan and Contingency Measures for the Cecil County Nonattainment Area

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

**ACTION:** Final rule.

**SUMMARY:** EPA is granting full approval of the State Implementation Plan (SIP) revision submitted by the State of Maryland, for Cecil County, part of the Philadelphia-Wilmington-Trenton severe ozone nonattainment area, to meet the 15 percent reasonable further progress (RFP, or 15% plan) requirements of the Clean Air Act (the Act). EPA is granting approval of the 15% plan and contingency measures, submitted by the State of Maryland, because the plan achieves the required 15% emission reduction. This action is being taken under section 110 of the Clean Air Act.

**EFFECTIVE DATE:** This final rule is effective on August 28, 1997.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland 21224.

**FOR FURTHER INFORMATION CONTACT:** Carolyn M. Donahue, (215) 566-2095, at the EPA Region III address above. Information may also be requested via e-mail at the following address: donahue.carolyn@epamail.epa.gov.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 182(b)(1) of the Act requires ozone nonattainment areas classified as moderate or above to develop plans to reduce volatile organic compounds (VOC) emissions by fifteen percent from 1990 baseline levels. Cecil County, as part of the Philadelphia-Wilmington-Trenton nonattainment area, is classified as severe and is subject to the 15% plan requirement.

The State of Maryland submitted the 15% plan SIP revision for Cecil County on July 12, 1995. On June 5, 1997, EPA

published a notice of proposed rulemaking (NPR) in the **Federal Register** proposing approval of the 15% plan [62 FR 30818]. EPA's rationale for granting approval to the Maryland 15% plan for the Cecil County nonattainment area, and the details of the July 12, 1995 submittal are contained in the June 5, 1997 NPR and the accompanying technical support document and will not be restated here. No public comments were received on the NPR.

##### II. Final Action

EPA is today granting approval of the 15% plan and contingency measures for the Cecil County severe ozone nonattainment area as a revision to the Maryland SIP.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the EPA certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S.*