

information was previously submitted to, or cited by, the Office in an earlier application, unless:

(1) The earlier application is properly identified in the information disclosure statement and is relied on for an earlier effective filing date under 35 U.S.C. 120; and

(2) The information disclosure statement submitted in the earlier application complies with paragraphs (a) through (c) of this section.

[65 FR 54671, Sept. 8, 2000, as amended at 65 FR 57055, Sept. 20, 2000; 68 FR 38628, June 30, 2003; 69 FR 56542, Sept. 21, 2004]

#### § 1.99 [Reserved]

#### EXAMINATION OF APPLICATIONS

AUTHORITY: Secs. 1.101 to 1.108 also issued under 35 U.S.C. 131, 132.

#### § 1.101 [Reserved]

#### § 1.102 Advancement of examination.

(a) Applications will not be advanced out of turn for examination or for further action except as provided by this part, or upon order of the Director to expedite the business of the Office, or upon filing of a request under paragraph (b) or (e) of this section or upon filing a petition or request under paragraph (c) or (d) of this section with a showing which, in the opinion of the Director, will justify so advancing it.

(b) Applications wherein the inventions are deemed of peculiar importance to some branch of the public service and the head of some department of the Government requests immediate action for that reason, may be advanced for examination.

(c) A petition to make an application special may be filed without a fee if the basis for the petition is:

- (1) The applicant's age or health; or
- (2) That the invention will materially:
  - (i) Enhance the quality of the environment;
  - (ii) Contribute to the development or conservation of energy resources; or
  - (iii) Contribute to countering terrorism.

(d) A petition to make an application special on grounds other than those referred to in paragraph (c) of this sec-

tion must be accompanied by the fee set forth in § 1.17(h).

(e) A request for prioritized examination under this paragraph must comply with the requirements of this paragraph and be accompanied by the prioritized examination fee set forth in § 1.17(c), the processing fee set forth in § 1.17(i), and if not already paid, the publication fee set forth in § 1.18(d). An application for which prioritized examination has been requested may not contain or be amended to contain more than four independent claims, more than thirty total claims, or any multiple dependent claim. Prioritized examination under this paragraph will not be accorded to international applications that have not entered the national stage under 35 U.S.C. 371, design applications, reissue applications, provisional applications, or reexamination proceedings. A request for prioritized examination must also comply with the requirements of paragraph (e)(1) or paragraph (e)(2) of this section.

(1) A request for prioritized examination may be filed with an original utility or plant nonprovisional application under 35 U.S.C. 111(a) that is complete as defined by § 1.51(b), with any fees due under § 1.16 paid on filing. If the application is a utility application, it must be filed via the Office's electronic filing system. The request for prioritized examination in compliance with this paragraph must be present upon filing of the application.

(2) A request for prioritized examination may be filed with or after a request for continued examination in compliance with § 1.114. If the application is a utility application, the request must be filed via the Office's electronic filing system. The request must be filed before the mailing of the first Office action after the filing of the request for continued examination under § 1.114. Only a single such request for prioritized examination under this paragraph may be granted in an application.

(36 U.S.C. 6; 15 U.S.C. 1113, 1123)

[24 FR 10332, Dec. 22, 1959, as amended at 47 FR 41276, Sept. 17, 1982; 54 FR 6903, Feb. 15, 1989; 60 FR 20226, Apr. 25, 1995; 62 FR 53191, Oct. 10, 1997; 65 FR 54671, Sept. 8, 2000; 69 FR 56542, Sept. 21, 2004; 76 FR 59054, Sept. 23, 2011; 76 FR 78569, Dec. 19, 2011]